

**NORFOLK AND WAVENEY
UNIVERSITY HOSPITALS GROUP**

**GROUP BOARD MEETING IN PUBLIC:
1 APRIL 2026**

ADDITIONAL PAPERS: READING ROOM PACK

This pack contains additional material referenced within individual
Group Board papers for the meeting on 1 April 2026

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Norfolk and Norwich University Hospitals NHS Foundation Trust

Constitution

A PUBLIC BENEFIT CORPORATION

Version dated: March 2026

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**Norfolk and Norwich University Hospitals NHS Foundation Trust
Constitution**

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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.
- 1.2 References in this Constitution to legislation include all amendments, replacements and re-enactments made and include all subordinate legislation made thereunder.
- 1.3 Headings are for ease of reference only and are not to affect interpretation.
- 1.4 References to paragraphs are to paragraphs in this Constitution, save that where there is a reference to a paragraph in an annex or appendix to this Constitution it shall be a reference to a paragraph in that annex or appendix unless the contrary is expressly stated, or the context otherwise requires.
- 1.5 Words importing the masculine gender only shall include the feminine gender; words importing the singular shall import the plural and vice-versa.
- 1.6 In this Constitution:

The **2006 Act** is the National Health Service Act 2006.

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

The **2022 Act** is the Health and Care Act 2022.

The **Accounting Officer** is the Chief Executive who discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act.

Annual Members' Meeting is the annual meeting of the members of the Trust in accordance with paragraph 12 of this Constitution.

Auditor means an individual or organisation appointed by the Trust's Council of Governors in accordance with paragraph 23 of Schedule 7 to the 2006 Act to evaluate and verify the accuracy of the financial records and accounting practices of the Trust.

The **Board of Directors** is the board of directors of the Norfolk and Waveney University Hospitals Group, as constituted in accordance with this Constitution and the Constitutions of other Foundation Trusts in the Group.

The **Chair** means the Norfolk and Waveney University Hospitals Group Chair.

The **Chief Executive** means the Norfolk and Waveney University Hospitals Group Chief Executive Officer.

The **Code of Conduct for Directors** means the Trust's code of conduct for the Directors as adopted by the Trust from time to time.

Constitution means this constitution and all annexes to it.

The **Code of Conduct for Governors** means the Trust's code of conduct for the Governors as adopted by the Trust and the Council of Governors from time to time.

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Council of Governors is the Council of Governors of the Trust as constituted in accordance with this Constitution.

Days mean calendar days for the purposes of this Constitution, unless otherwise specified.

Deputy Chair means one Non-Executive Director appointed by the Board of Directors to act as the Chair of the Trust in certain circumstances.

Director means a voting member of the Board of Directors.

Financial Year means each successive period of twelve (12) months beginning with 1 April and ending on 31 March.

Health Overview and Scrutiny Committee means a local authority committee in accordance with regulations made further to paragraph 244 of the 2006 Act and includes joint Health Overview and Scrutiny Committees established by more than one local authority further to paragraph 245 of the 2006 Act.

Healthwatch means (1) the committee of the Care Quality Commission established under paragraph 6 of Schedule 1 of the Health and Social Care Act 2008 known as Healthwatch England; and (2) any local Healthwatch organisation with the functions set out in paragraph 221 of Local Government and Public Involvement in Health Act 2007 relating to service user and public involvement in healthcare.

Integrated Care Board (ICB) means an integrated care board established under Chapter A3 of Part 2 of the 2006 Act.

Meeting of the Board of Directors means a duly convened meeting of the Board of Directors.

Model Election Rules means those election rules as published by NHS Providers from time to time.

NHS England is the body corporate known as NHS England, established under section 1H of the 2006 Act.

Partnership Organisation means a partnership organisation for the purposes of paragraph 9(7) of the 2006 Act Schedule 7.

Public Constituency means those who live in an area specified in Annex 1 of this Constitution as an area for any public constituency of the Trust as constituted in accordance with paragraph 9 of this Constitution.

Qualifying Organisations means those organisations set out in Annex 2 as qualifying organisations.

Significant Transaction is not defined in this Constitution.

Staff Constituency means those individuals who are members of Trust staff and as constituted in accordance with paragraph 10 of this Constitution.

Statutory Transaction means a merger under section 56 of the 2006 Act, an acquisition under section 56A of the 2006 Act, a separation under section 56B of the 2006 Act, or dissolution under section 57A of the 2006 Act.

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The **Terms of Reference** means the terms of reference adopted by any committees or other groups of the Trust and which are set out in the Trust's Governance Manual, and which may be updated from time to time.

The **Trust** means the Norfolk and Norwich University Hospitals NHS Foundation Trust.

Trust Secretary is the person appointed by the Board to act as the secretary or with responsibility for the corporate affairs of the Trust, responsible for providing independent governance advice to the Chair, Chief Executive, Board of Directors, and Council of Governors from time to time.

Voluntary organisation means a body, other than a public or local authority, the activities of which are not carried on for profit.

2 Name

2.1 The name of the foundation trust is the Norfolk and Norwich University Hospitals NHS Foundation Trust (the '**Trust**').

3 Principal Purpose

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

3.2 The Trust does not fulfil its principal purpose unless, in each Financial Year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.

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

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

3.3.2 the promotion and protection of public health.

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

4 Powers

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

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

4.3 Subject to paragraphs 4.4 (or as otherwise provided by section 45 of the Mental Health Act 2007) and 5, any of these powers may be delegated to a committee of Directors or to an Executive Director.

The Board of Directors may authorise any three or more people, each of whom is neither an Executive Director of the Trust nor an employee of the Trust, to exercise powers conferred on the Trust by section 45 of the Mental Health Act 2007.

- 4.5 The Trust shall exercise its functions effectively, efficiently and economically.
- 4.6 Subject to paragraph 4.7 below and having regard to any guidance published by NHS England, in making a decision about the exercise of its functions, the Trust shall have regard to all likely effects of the decision in relation to:
- 4.6.1 the health and wellbeing of the people of England;
 - 4.6.2 the quality of services provided to individuals by relevant bodies, or in pursuance of arrangements made by relevant bodies, for or in connection with the prevention, diagnosis or treatment of illness, as part of the health service in England; and
 - 4.6.3 efficiency and sustainability in relation to the use of resources by relevant bodies for the purposes of the health service in England.
- 4.7 The requirement to have regard to the wider effect of its decisions set out at paragraph 4.6 shall not apply to decisions about services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness.
- 4.8 In paragraph 4.6 'relevant bodies' has the meaning set out in paragraph 63A(4) of the 2006 Act.
- 4.9 In exercising its functions, the Trust shall have regard to the need to contribute towards compliance with the UK net zero emissions target set out at section 1 of the Climate Change Act 2008 and the environmental targets set out at section 5 of the Environment Act 2021, and to adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008. In doing so, the Trust shall also have regard to guidance published by NHS England.
- 4.10 The Trust may do anything which appears to it to be necessary or expedient for the purposes of or in connection with its functions.

5 Joint working and delegation arrangements

- 5.1 Subject to paragraph 5.2 the Trust may arrange in accordance with section 65Z5 of the 2006 Act for the joint exercise of functions with any one or more of the following bodies:
- 5.1.1 a relevant body;
 - 5.1.2 a local authority;
 - 5.1.3 a combined county authority.
- 5.2 Where the Trust has entered into arrangements for the joint exercise of functions with one or more bodies in accordance with paragraph 5.1, it may make arrangements for:
- 5.2.1 the function to be exercised by a joint committee of theirs
 - 5.2.2 for one or more of them, or a joint committee of them, to establish and maintain a pooled fund.

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5.3 The Trust must have regard to any guidance published by NHS England under s65Z7.

5.4 In this paragraph 5 the following terms have the following meanings:

5.4.1 'Relevant body' has the meaning set out in section 65Z5(2) of the 2006 Act.

5.4.2 'Local authority' means a local authority within the meaning of section 2B of the 2006 Act.

5.4.3 'Combined authority' has the meaning set out in section 275 of the 2006 Act.

5.4.4 'Pooled fund' has the meaning set out in s65Z6(3) of the 2006 Act.

6 Duties relating to Integrated care system financial controls

6.1 The Trust must seek to achieve financial objectives that apply to it under section 223L of the 2006 Act.

6.2 The Trust must exercise its functions with a view to ensuring that it complies with its duties under section 223M and section 223N of the 2006 Act to limit local capital resource use and local revenue resource use.

7 Membership and Constituencies

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

7.1.1 a Public Constituency;

7.1.2 the Staff Constituency.

8 Application for membership

An individual who is eligible to become a member of the Trust may do so on application to the Trust in accordance with this Constitution, with the exception of individuals who are eligible to become members of the Staff Constituency, who shall automatically become members in accordance with paragraph 10.7.

9 Public Constituencies

9.1 An individual who lives in an area specified in Annex 1 as an area for a Public Constituency may become or continue as a member of the Trust.

9.2 Those individuals who live in an area specified for a Public Constituency are referred to collectively as a Public Constituency.

9.3 The minimum number of members in each Public Constituency is specified in Annex 1.

10 Staff Constituency

10.1 An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a member of the Trust provided:

- 10.1.1 they are employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least twelve (12) months; or
 - 10.1.2 they have been continuously employed by the Trust under a contract of employment for at least twelve (12) months; and
 - 10.1.3 they have not been disqualified or restricted from membership in accordance with paragraph 11 of this Constitution.
- 10.2 In addition, any individual:
- 10.2.1 who is registered with the Trust as a volunteer and exercises functions on behalf of the Trust may become or continue as a member of the Staff Constituency provided he has been so registered and exercising such functions continuously for a period of at least 12 months; or
 - 10.2.2 who exercise functions for the purposes of the Trust through any of the Qualifying Organisations may become or continue as a member of the Staff Constituency providing that he has exercised such functions for a period of at least 12 months and continues to do so.
- 10.3 The Board of Directors may from time to time review, amend or revise, the list of Qualifying Organisations to reflect changing circumstances or contractual relations, in accordance with the variation requirements set out at paragraph 44 below.
- 10.4 Those individuals who are eligible for membership of the Trust by reason of the paragraphs 10.1 or 10.2 are referred to collectively as the Staff Constituency.
- 10.5 The Staff Constituency shall be divided into five descriptions of individuals who are eligible for membership of the Staff Constituency, each description of individuals being specified within Annex 2 and being referred to as a class within the Staff Constituency.
- 10.6 The minimum number of members in each class in the Staff Constituency is specified in Annex 2.
- 10.7 An individual who is:
- 10.7.1 eligible to become a member of the Staff Constituency; and
 - 10.7.2 invited by the Trust to become a member of the Staff Constituency,
- shall become a member of the Trust as a member of the appropriate class within the Staff Constituency without an application being made, unless they inform the Trust that they do not wish to do so.

11 Restriction on membership

- 11.1 An individual who is a member of a constituency, or of a class within a constituency, may not, while membership of that constituency or class continues, be a member of any other constituency or class.
- 11.2 An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any constituency other than the Staff Constituency.

11.3 An individual must be at least sixteen (16) years old to become a member of the Trust.

11.4 A member shall otherwise cease to be a member of the Trust in the following circumstances:

11.4.1 they resign by notice to the Trust;

11.4.2 if the Trust reasonably believes that the member no longer lives at their registered address and the Trust does not know where that member lives.

11.5 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Trust are set out in Annex 4.

12 Annual Members' Meeting

12.1 The Trust shall hold an Annual Members' Meeting within nine (9) months of the end of each Financial Year. The Annual Members' Meeting shall be open to members of the public.

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

13 Council of Governors – Composition

13.1 The Trust is to have a Council of Governors, which shall comprise both Elected and Appointed Governors.

13.2 The composition of the Council of Governors is specified in Annex 3.

13.3 The members of the Council of Governors, other than the Appointed Governors, shall be chosen by election by their constituency. The number of Governors to be elected by each constituency is specified in Annex 3.

13.4 No person shall be eligible to be elected or appointed (as the case may be) a Governor in accordance with the terms of this Constitution unless at the date of their nomination for election or upon the date of their appointment they have attained the age of sixteen (16) years. Persons who are eligible under this paragraph 13.4 shall be eligible for appointment or election under the provisions of this paragraph 13.

Public Governors

13.5 Members of the Public Constituency may vote for any eligible member to be a Public Governor, subject to paragraphs 13.6 and 13.7 below.

13.6 A person shall not stand for election to the Council of Governors as a Public Governor unless they have made a declaration in a form specified by the Trust Secretary.

13.7 A Public Governor shall not vote at a meeting of the Council of Governors unless within the previous twelve (12) months they have made, in a form specified by the Trust Secretary, a declaration of eligibility to vote.

13.8 The declarations required under 13.6 and 13.7 above and the equivalent provisions of the declaration required under the Model Election Rules are required by section 60 of the 2006 Act. It is a criminal offence knowingly or

recklessly to make a declaration under section 60 of the 2006 Act which is false in a material particular.

Staff Governors

- 13.9 Members of the Staff Constituency may vote for any eligible member to be a Staff Governor.

Appointed Governors

- 13.10 The following local authorities shall be entitled to appoint one (1) Local Authority Governor each:

13.10.1 Norfolk County Council

- 13.11 There shall be one (1) Appointed Governor appointed by each Partnership Organisation as set out in Annex 3.
- 13.12 No defect or deficiency in the appointment or composition of the members of the Council of Governors shall affect the validity of any decision or action taken by them.

14 Council of Governors – election of Governors

- 14.1 Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules on the basis of single transferable vote (STV) polling and the Model Election Rules shall be construed accordingly.
- 14.2 The Model Election Rules as published from time to time by NHS Providers form part of this Constitution. A copy of the Model Election Rules as at the date of this Constitution is included at Annex 5 of this Constitution. References in the Model Election Rules to Monitor shall be construed as references to NHS England.
- 14.3 A subsequent variation of the Model Election Rules by NHS Providers shall not constitute a variation of the terms of this Constitution for the purposes of paragraph 44 of this Constitution (amendment of the Constitution).
- 14.4 An election, if contested, shall be by secret ballot.

15 Council of Governors - tenure

- 15.1 An Elected Governor may hold office for a term of three (3) years.
- 15.2 An Elected Governor shall cease to hold office if they cease to be a member of the constituency by which they were elected, or if they are disqualified for any of the reasons set out in this Constitution. For the avoidance of doubt, this includes a Public Governor moving their principal residence from one Public Constituency to another.
- 15.3 An Elected Governor shall be eligible for re-election at the end of their term for a further three-year term.
- 15.4 An Elected Governor may not hold office for more than nine (9) consecutive years, or three full terms of office.

- 15.5 An Elected Governor completing the maximum term of office of nine (9) years, or nine (9) years within a preceding twelve (12) year period, may not stand to for re-election for a period of three (3) years.
- 15.6 An Appointed Governor may hold office for a period of three (3) years commencing from receipt of their formal nomination by their nominating local authority or Partnership Organisation.
- 15.7 An Appointed Governor shall cease to hold office if the nominating Partnership Organisation withdraws its sponsorship and the Trust has been notified that the sponsorship has been terminated.
- 15.8 An Appointed Governor shall be eligible for re-appointment at the end of their term for a further three-year term.
- 15.9 An Appointed Governor may not hold office for longer than nine (9) consecutive years, or three full terms of office.
- 15.10 An Appointed Governor completing the maximum term of office of nine (9) years, or nine (9) years within a preceding twelve (12) year period, may not stand for re-election to the Council for a period of three (3) years.
- 15.11 For the purposes of this paragraph 15, concerning the term of office for Governors, a 'year' means a period commencing immediately after the conclusion of their election or appointment.

16 Council of Governors – appointment of a Lead Governor

- 16.1 The Governors shall nominate one (1) of the Governors to be Lead Governor. The role of the Lead Governor will be to facilitate communication between NHS England and the Council of Governors in circumstances where it would not be appropriate to communicate through the normal channels such as via the Chair or the Trust Secretary.

17 Council of Governors – disqualification and removal

- 17.1 The following may not become or continue as a member of the Council of Governors:
 - 17.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
 - 17.1.2 a person in relation to whom a moratorium period under a debt relief order applies (under part 7A of the Insolvency Act 1986);
 - 17.1.3 a person who has made a composition or arrangement with, or granted a Trust deed for, their creditors and has not been discharged in respect of it; and/or
 - 17.1.4 a person who within the preceding five (5) years has been convicted anywhere in the world of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three (3) months (without the option of a fine) was imposed on them.
- 17.2 Governors must be at least sixteen (16) years of age at the date they are nominated for election or appointment.

17.3 A Governor may resign from that office at any time during their term by giving notice in writing to the Secretary or the Chair, such notice is to specify the date of resignation.

17.4 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors are set out in Annex 3.

18 Council of Governors – duties of Governors

18.1 The general duties of the Council of Governors are:

18.1.1 to hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors; and

18.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public.

18.2 The Trust must take steps to ensure that the Governors are equipped with the skills and knowledge they require in their capacity as such.

18.3 All Governors shall comply with the Code of Conduct for Governors.

19 Council of Governors – meetings of Governors

19.1 The Council of Governors shall meet at least four (4) times in each Financial Year at such time and places as the Chair may determine from time to time.

19.2 The Chair of the Trust or, in their absence, the Deputy Chair or another Non-Executive Director, shall preside at meetings of the Council of Governors. For the avoidance of doubt, no meetings of the Council of Governors may proceed in the absence of the Chair or a Non-Executive Director.

19.3 Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons, including, but not limited to, reasons for commercial confidentiality; and/or interference with or preventing the proper conduct of the meeting.

19.4 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 (1) or more of the Directors to attend a meeting.

20 Council of Governors – referral to NHS England

20.1 A Governor of an NHS Foundation Trust may refer a question to NHS England through the Lead Governor where they are concerned that the Trust has failed or is failing:

20.1.1 to act in accordance with its Constitution; or

20.1.2 to act in accordance with any provision made by or under chapter 5 of the 2006 Act.

20.2 A referral to NHS England will only be made where more than half of the members of the Council of Governors vote to approve the referral.

21 Council of Governors - conflicts of interest of Governors

- 21.1 If a Governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the Governor shall disclose that interest to the members of the Council of Governors as soon as they become aware of it. The standing orders for the Council of Governors shall make provision for the disclosure of interests and arrangements for the exclusion of a Governor declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.
- 21.2 Further provision for dealing with Governor conflicts of interest shall be set out in the standing orders for the practice and procedure of the Council of Governors contained in the Group Code of Conduct.

22 Council of Governors – travel expenses

- 22.1 Members of the Council of Governors may claim travelling and other expenses at rates determined by the Trust.

23 Council of Governors – standing orders

- 23.1 The standing orders for the practice and procedure of the Council of Governors and further provisions relating to the Council of Governors are contained in the Trust's Governance Manual.

24 Board of Directors – composition

- 24.1 The Trust is part of the Norfolk and Waveney Hospitals Group. The Group has a Group Board which shall comprise both Executive and Non-Executive Directors, including a single Group Chair. The Non-Executive Directors will always form the majority of the Board of Directors.
- 24.2 Subject to the requirements of paragraph **Error! Reference source not found.** above, the Board of Directors is to comprise:
- 24.2.1 a Non-Executive Chair;
 - 24.2.2 not less than four (4) but no more than eleven (11) other Non-Executive Directors; and
 - 24.2.3 not less than four (4) but no more than six (6) Executive Directors.
- 24.3 One (1) of the Executive Directors shall be the Group Chief Executive.
- 24.4 The Group Chief Executive shall be the Accounting Officer.
- 24.5 One (1) of the Executive Directors shall be the Finance Director.
- 24.6 One (1) of the Executive Directors is to be a registered medical practitioner or dentist.
- 24.7 One (1) of the Executive Directors is to be a registered nurse or midwife.
- 24.8 The validity of any act of the Board or the Trust is not affected by any vacancy among the Directors or by any defect in the appointment of any Director.

25 Board of Directors – general duty

25.1 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.

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

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

26.1.1 they are a member of a Public Constituency; or

26.1.2 where any of the Trust's hospitals includes a medical or dental school provided by a university, they exercise functions for the purposes of that university; and

26.1.3 they are not disqualified by virtue of paragraph 29 below.

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

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

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

27.3 The Board of Directors may in consultation with the Council of Governors appoint a Non-Executive Director, to be the Senior Independent Director, for such a period not exceeding the remainder of their term as a Director.

27.4 The Chair and Non-Executive Directors will normally be appointed for a term of three (3) years and, subject to the approval of the Council of Governors, may be re-appointed for subsequent terms up to a maximum term of office of nine (9) years.

27.5 Further provisions with respect to the appointment and removal of the Chair, Senior Independent Director and other Non-Executive Directors are set out in the standing orders for the practice and procedure of the Board of Directors contained within the Trust's Governance Manual.

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

28.1 The Chair and Non-Executive Directors shall appoint or remove the Chief Executive.

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

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

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29 Board of Directors – disqualification

- 29.1 The following may not become or continue as a member of the Board of Directors:
- 29.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
 - 29.1.2 a person in relation to whom a moratorium period under a debt relief order applies (under part 7A of the Insolvency Act 1986);
 - 29.1.3 a person who has made a composition or arrangement with, or granted a Trust deed for, their creditors and has not been discharged in respect of it;
 - 29.1.4 a person who within the preceding five (5) years has been convicted anywhere in the world of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three (3) months (without the option of a fine) was imposed on them;
 - 29.1.5 a person who is a member of Healthwatch;
 - 29.1.6 a person who is a spouse, partner, parent or child of a member of the Board of Directors of the Trust;
 - 29.1.7 a person who is a member of a local authority's Health Overview and Scrutiny Committee;
 - 29.1.8 a person who is the subject of a disqualification order made under the Company Directors Disqualification Act 1986;
 - 29.1.9 a person whose tenure of office as a Chair or as a member or director of an NHS 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;
 - 29.1.10 a person who within the preceding five (5) years has been dismissed, otherwise than by reason of redundancy from any paid employment with an NHS body and not reinstated;
 - 29.1.11 a person who is otherwise disqualified by law from acting as a director of an NHS foundation trust;
 - 29.1.12 in the case of a Non-Executive Director, a person who has refused without reasonable cause to fulfil any training requirement established by the Board of Directors;
 - 29.1.13 a person who has had their name removed from a list maintained under the regulations pursuant of Sections 91, 106, 123 or 146 of the 2006 Act, or the equivalent lists maintained by local health boards in Wales under the National Health Services (Wales) Act 2006, and they have not subsequently had their name included in such a list;
 - 29.1.14 a person who is subject to a Sex Offenders Order (under the Sex Offenders Act 1997 as amended by the Sexual Offences Act 2003) and/or whose name is included in the Sex Offender Register (established under the Sexual Offences Act 2003);

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- 29.1.15 a person who is incapable by reason of mental disorder, injury or illness of managing and administering his or her property and affairs;
- 29.1.16 a person who fails to meet the requirements of the fit and proper person test set out in regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014; or
- 29.1.17 a person who has refused to sign and deliver to the Trust Secretary a statement in the form required by the Board of Directors within one (1) calendar month of appointment confirming acceptance of the Code of Conduct for Directors.

29.2 Any person who is disqualified from becoming or continuing as a Director on any of the grounds as set out in this paragraph 29 shall immediately resign as a Director of the Trust or if they decline or fail to do so shall be removed immediately by the Board of Directors and a new Director appointed in their place in accordance with the provisions in this Constitution.

30 Board of Directors – meetings

- 30.1 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons including, but not limited to, reasons for commercial confidentiality; and/or interference with or preventing proper conduct of the meeting.
- 30.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

31 Board of Directors – Standing orders

- 31.1 The standing orders for the practice and procedure of the Board of Directors are set out in the Trust’s Governance Manual.

32 Board of Directors - conflicts of interest of Directors

- 32.1 The duties that a Director of the Trust has by virtue of being a Director include in particular:
 - 32.1.1 a duty to avoid a situation in which the Director has (or can have) a direct or indirect interest that conflicts (or possibly may conflict) with the interests of the Trust; and
 - 32.1.2 a duty not to accept benefits from a third party by reason of being a Director or doing (or not doing) anything in that capacity.
- 32.2 The duty referred to in paragraph 32.1.1 is not infringed if:
 - 32.2.1 the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or
 - 32.2.2 the matter has been authorised in accordance with the Constitution.
- 32.3 The duty referred to in paragraph 32.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

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- 32.4 In sub-paragraph 32.1.2, “third party” means a person other than:
- 32.4.1 the Trust; or
 - 32.4.2 a person acting on its behalf.
- 32.5 Directors shall disclose to the Board of Directors the nature and extent of any material interests whether direct or indirect (as defined below) held by a Director, their spouse or partner, which shall be recorded in the register of interests of the Directors.
- 32.6 A direct or indirect interest is:
- 32.6.1 any interest (excluding a holding of shares in a company whose shares are listed on any public exchange where the holding is less than 2% of the total shares in issue) or position held by a Director in any firm, company or business which has or is likely to have a trading or commercial relationship with the Trust;
 - 32.6.2 any interest in an organisation providing health and social care services to the national health service;
 - 32.6.3 a position of authority in a charity or voluntary organisation in the field of health and social care; or
 - 32.6.4 any connection with any organisation, entity or company considering entering into a financial arrangement with the Trust including but not limited to lenders or banks.
- 32.7 Any Director who has an interest either direct or indirect in a matter to be considered by the Board of Directors (whether because the matter involves a firm, company, business or organisation in which the Director or their spouse or partner has a direct or indirect interest or otherwise) shall declare the nature and extent of such interest to the Board of Directors and that Director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- 32.8 If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.
- 32.9 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.
- 32.10 This paragraph does not require a declaration of an interest of which the Director is not aware of or where the Director is not aware of the transaction or arrangement in question.
- 32.11 A Director need not declare an interest:
- 32.11.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
 - 32.11.2 if, or to the extent that, the Directors are already aware of it;
 - 32.11.3 if, or to the extent that, it concerns terms of the Director’s appointment that have been or are to be considered:

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- (a) by a meeting of the Board of Directors; or
- (b) by a committee of the Directors appointed for the purpose under this Constitution.

32.12 However, if paragraph 32.14 applies, a Director who is interested in an actual or proposed matter to be considered by the Board of Directors is to be counted as participating in the decision making process for quorum and voting purposes.

32.13 A matter shall have been authorised for the purposes of paragraph 32.13 if:

32.13.1 the Board of Directors by majority disapplies the provision of the Constitution which would otherwise prevent a Director from being counted as participating in the decision-making process;

32.13.2 the Director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or

32.13.3 the Director's conflict of interest arises from a permitted cause.

32.13.4 For the purposes of paragraph 32.13.3, the following is a permitted cause:

- (a) a guarantee given, or to be given, by or to a Director in respect of an obligation incurred by or on behalf of the Trust or any of its subsidiaries.
- (b) for the purposes of this paragraph, references to proposed decisions and decision-making processes include any Directors' meeting or part of a Directors' meeting.

32.14 Subject to paragraph 32.15, if a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chair whose ruling in relation to any Director other than the Chair is to be final and conclusive.

32.15 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chair, the question is to be decided by a decision of the Directors at that meeting, for which purpose the Chair is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

32.16 Should an interest in a matter for consideration or decision at a board meeting or board committee meeting affect either all the Non-Executive Directors or all the Executive Directors, the Directors present not affected by the interest will form the quorum for that item.

33 Board of Directors – remuneration and terms of office

The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chair and the other Non-Executive Directors. In doing so, the Council of Governors shall have regard to NHS England's guidance on remuneration for non-executive directors.

33.2 A committee of the Chair and the Non-Executive Directors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other Executive Directors.

34 Registers

34.1 The Trust shall have:

34.1.1 a register of members showing, in respect of each member, the constituency to which they belong;

34.1.2 a register of members of the Council of Governors;

34.1.3 a register of interests of Governors;

34.1.4 a register of Directors; and

34.1.5 a register of interests of the Directors.

35 Admission to and removal from the registers

35.1 The Trust Secretary 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, and membership shall only formally commence once that name has been entered into the register.

35.2 The Trust Secretary shall remove from the register of Governors the name of any member who ceases to be a Governor under the provisions of this Constitution.

35.3 The Trust Secretary shall remove from the register of Directors the name of any Director who ceases to be a Director under the provisions of this Constitution.

36 Registers – inspection and copies

36.1 The Trust shall make the registers specified in paragraph 34 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

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

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

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

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

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

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37 Documents available for public inspection

- 37.1 The Trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times:
- 37.1.1 a copy of the current Constitution;
 - 37.1.2 a copy of the latest annual accounts and of any report of the Auditor on them; and
 - 37.1.3 a copy of the latest annual report.
- 37.2 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:
- 37.2.1 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;
 - 37.2.2 a copy of any report laid under section 65D (appointment of Trust special administrator) of the 2006 Act;
 - 37.2.3 a copy of any information published under section 65D (appointment of Trust special administrator) of the 2006 Act;
 - 37.2.4 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;
 - 37.2.5 a copy of any notice published under section 65F (administrator's draft report); section 65G (consultation plan); section 65H (consultation requirements); section 65J (power to extend time); section 65KA (NHS England's decision), section 65KB (Secretary of State's response to NHS England's decision), section 65KC (action following Secretary of State's rejection of final report); or section 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act;
 - 37.2.6 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;
 - 37.2.7 a copy of any final report published under section 65I (administrator's final report);
 - 37.2.8 a copy of any statement published under section 65J (power to extend time); or section 65KC (action following Secretary of State's rejection of final report) of the 2006 Act; and
 - 37.2.9 a copy of any information published under section 65M (replacement of Trust special administrator) of the 2006 Act.
- 37.3 Any person who requests a copy of or extract from any of the above documents is to be provided with a copy.

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

38 Auditor

38.1 The Trust shall have an Auditor.

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

38.3 A person may only be appointed as the Auditor if they (or in the case of a firm, each of its members) are eligible to become an Auditor in accordance with paragraph 23 of Schedule 7 to the 2006 Act.

38.4 The Auditor is to carry out their duties in accordance with Schedule 10 of the 2006 Act and in accordance with any directions given by NHS England on standards, procedures and techniques to be adopted.

39 Audit Committee

39.1 The Trust shall establish a committee consisting of at least three (3) independent Non-Executive Directors as an Audit Committee to perform such monitoring, reviewing and other functions as are appropriate.

40 Accounts

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

40.2 NHS England may, with the approval of the Secretary of State, give directions to the Trust as to the content and form of its accounts.

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

40.4 The Trust shall prepare in respect of each Financial Year annual accounts in such form as NHS England may with the approval of the Secretary of State direct.

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

40.6 The Trust shall lay a copy of the annual accounts, and any report of the auditor on them, before Parliament and once it has done so, send copies of those documents to NHS England.

41 Annual report, forward plans and non-NHS work

41.1 The Trust shall prepare an annual report and send it to NHS England.

41.2 Each Annual Report must, in particular, review the extent to which the Trust has exercised its functions:

41.2.1 in accordance with the plans published under:

(a) section 14Z52 of the 2006 Act; and

(b) section 14Z56 of the 2006 Act

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- 41.2.2 consistently with NHS England's views set out in the latest statement published under section 13SA (1)
- 41.3 Each Annual Report shall provide:
- 41.3.1 information on any steps taken by the Trust to secure that (taken as a whole) the actual membership of its public constituencies and the classes of the staff constituency is representative of those eligible for such membership;
- 41.3.2 information on any occasion in the period to which the report relates to which the Council of Governors has exercised its power under paragraph 19.4
- 41.3.3 information on the Trust's policy on pay and on the work of the committee established under paragraph 33.2 and such other procedures as the Trust has on pay;
- 41.3.4 information on the remuneration of the Directors and on the expenses of the governors and the Directors;
- 41.3.5 any other information NHS England requires.
- 41.4 The Trust is to comply with any decision NHS England makes as to:
- 41.4.1 the form of the report;
- 41.4.2 when the reports are to be sent to it;
- 41.4.3 the periods to which the reports relate.
- 41.5 The Trust shall give information as to its forward planning in respect of each Financial Year to NHS England.
- 41.6 The document containing the information with respect to forward planning (referred to above) shall be prepared by the Directors.
- 41.7 In preparing the document, the Directors shall have regard to the views of the Council of Governors.
- 41.8 Each forward plan must include information about:
- 41.8.1 the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on; and
- 41.8.2 the income it expects to receive from doing so.
- 41.9 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in paragraph 41.8.1 the Council of Governors must:
- 41.9.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions; and
- 41.9.2 notify the Directors of the Trust of their determination.

- 41.10 Where the Trust 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 it may implement the proposal only if more than half of the members of the Council of Governors voting approve its implementation.

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

- 42.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors and at the Trust's Annual Members Meeting:

- 42.1.1 the Trust's annual accounts;
- 42.1.2 any report of the Auditor on them; and
- 42.1.3 the Trust's Annual Report.

- 42.2 The documents shall also be presented to the members of the Trust at the Annual Members' Meeting by at least one (1) member of the Board of Directors in attendance.

- 42.3 The Trust may combine a Meeting of the Council of Governors convened for the purposes of paragraph 42.1 with the Annual Members' Meeting.

43 Instruments

- 43.1 The Trust shall have a seal.
- 43.2 The seal shall not be affixed except under the authority of the Board of Directors. Attestation by any two Directors shall be deemed to constitute affixing the seal under the authority of the Board of Directors or a committee under a delegation.

44 Amendment of the Constitution

- 44.1 The Trust may make amendments to its Constitution only if:
- 44.1.1 more than half of the members of the Board of Directors of the Trust voting approve the amendments; and
 - 44.1.2 more than half of the members of the Council of Governors of the Trust voting approve the amendments.
- 44.2 Amendments made under paragraph 44.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the Constitution would, as a result of the amendment, not accord with Schedule 7 of the 2006 Act.
- 44.3 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):
- 44.3.1 at least one (1) member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment; and

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

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

44.5 Amendments to this Constitution are to be notified by NHS England. For the avoidance of doubt, NHS England'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.

45 Mergers etc. and significant transactions

45.1 The Trust may only apply for a Statutory Transaction with the approval of more than half of the members of the Council of Governors.

45.2 The Trust may enter into a Significant Transaction only if more than half of the members of the Council of Governors of the Trust voting approve entering into the transaction.

45.3 For the purposes of paragraph 45.2 a Statutory Transaction is not a Significant Transaction.

46 Procedures and practices

46.1 The Board of Directors shall adopt such procedures and practices (by way of a Governance Manual or otherwise) as it shall deem to be appropriate for the good governance of the Trust from time to time. For the avoidance of doubt, any such practices and procedures adopted by the Board of Directors for the purposes of good governance shall not form part of this Constitution.

47 Indemnity

47.1 Members of the Board of Directors, the Council of Governors and the Trust Secretary who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust.

47.2 The Trust may purchase and maintain for members of the Board of Directors, Council of Governors and the Trust Secretary, insurance in respect of Directors' and officers' liability, including, without limitation, liability arising by reason of the Trust acting as a corporate trustee of an NHS charity.

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Annex 1 The Public Constituencies

There shall be seven Public Constituencies. Members of the public shall be eligible for membership of the Public Constituencies as shown in the table below:

Public Constituency	Minimum number of members
Norwich	300
Breckland	150
Broadland	150
South Norfolk	100
North Norfolk	100
Great Yarmouth/Waveney	100
West Norfolk	100
Rest of England	100

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Annex 2 The Staff Constituency

Class	Description	Minimum number of members
Nursing and Midwifery*	Includes both registered and non-registered, e.g. including Health Care Assistants	300
Admin and Clerical**	In accordance with the classification in the Trust's Electronic Staff Record	300
Medical		150
Additional Professional, Scientific, Technical and Clinical Support		150
Contracted staff and Volunteers	Persons who exercise of functions for the purposes of the Trust through specified Qualifying Organisations. Those Qualifying Organisations currently so specified by the Trust Board are: (i) Octagon Healthcare Limited; (ii) Serco Health Limited; (iii) NCS Limited (Norfolk County Services Limited).	100
Total		1000

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Annex 3 Further provisions for the Council of Governors

1 Composition

1.1 The Council of Governors shall comprise 26 governors as set out in the tables below:

Public Governors

Public Constituency	Number of governors
Norwich	3
Breckland	3
Broadland	3
South Norfolk	2
North Norfolk	2
Great Yarmouth/Waveney	1
West Norfolk	1
Rest of England and Wales	1
Total	16

Staff Governors

Staff Class	Number of governors
Nursing and Midwifery	2
Admin and Clerical	1
Medical	1
Additional professional scientific, technical and clinical support	1
Contracted staff and Volunteers	1
Total	6

Appointed Governors

Appointing Organisation	Number of governors
Norfolk County Council	1
University of East Anglia	1
Norfolk and Waveney Integrated Care Board	1

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Appointing Organisation	Number of governors
Other local authorities collectively: South Norfolk, North Norfolk, Breckland, Broadland, Great Yarmouth/Waveney, West Norfolk and Norwich	1
Total:	4

2 Disqualification and removal

- 2.1 The following may not become or continue as a member of the Council of Governors:
- 2.1.1 a person who is a Director of the Trust;
 - 2.1.2 a person who is a director of another Foundation Trust;
 - 2.1.3 a person who has resigned following suspension or been removed as a Governor of another Foundation Trust;
 - 2.1.4 a person who has had their name removed from a list maintained under the regulations pursuant of Sections 91, 106, 123 or 146 of the 2006 Act, or the equivalent lists maintained by local health boards in Wales under the National Health Services (Wales) Act 2006, and they have not subsequently had their name included in such a list;
 - 2.1.5 a person who is subject to a Sex Offenders Order (under the Sex Offenders Act 1997 as amended by the Sexual Offences Act 2003) and/or whose name is included in the Sex Offender Register (established under the Sexual Offences Act 2003);
 - 2.1.6 a person who is incapable by reason of mental disorder, injury or illness of managing and administering their property and affairs;
 - 2.1.7 a person who has failed to give written consent to the Secretary to enable them to request a third party to provide data that will verify the person's status in relation to paragraphs 2.1.1 to 2.1.6 above;
 - 2.1.8 a person who has refused to take any training required by the Council of Governors for all governors.
- 2.2 If a governor fails to attend more than 2 consecutive meetings of the Council of Governors in any financial year, their tenure of office is to be terminated immediately unless the other governors are satisfied that:
- 2.2.1 the absence was due to a reasonable cause; and
 - 2.2.2 they will be able to start attending meetings of the Council of Governors again within such a period as they consider reasonable.
- 2.3 If a governor is considered to have acted in a manner inconsistent with:
- 2.3.1 the vision and values of the Trust and the core principles of the NHS;
 - 2.3.2 the terms of the Trust's licence; or

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- 2.3.3 the standing orders of the Council of Governors; or
- 2.3.4 the Governors' Code of Conduct; or
- 2.3.5 except as a result of a genuine mistake or where reasonable cause can be shown or where the Governor can demonstrate that the Governor has gained no personal benefit, the Governor has failed to declare an interest as required by the Constitution or the standing orders of the Council of Governors, or the Governor has spoken or voted at a meeting on a matter in which the Governor has an interest contrary to this Constitution or the standing orders of the Council of Governors, and this paragraph "interest" includes a pecuniary and a non-pecuniary interest and in either case whether direct or indirect, and

they are judged to have so acted by a majority of not less than 75% of the Council of Governors present and voting then the governor shall vacate their office immediately.

- 2.4 The Code of Conduct for the Council of Governors shall provide for the process to be adopted in cases relating to the termination of a governor's tenure.

3 Vacancies

- 3.1 Where a vacancy arises from the Council of Governors for any reason other than expiry of the term of office, the following provisions will apply:
- 3.2 Where the vacancy arises amongst the Appointed Governors, the Secretary shall request that the appointing organisation appoints a replacement to hold office for the remainder of the term of office.
- 3.3 When a vacancy arises for one or more Elected Governors, the Council of Governors shall have the option to take from the list of members who stood for election at the most recent election of Governors from the class or constituency in question the next highest polling candidate. This procedure, which shall be an uncontested election for the purposes of the Model Election Rules as they apply to the Trust and shall be available to the Governors on two occasions within twelve months of the previous election. Governors appointed in this way shall hold office for a minimum of six months from their appointment but, subject thereto, shall hold office until the earlier of the conclusion of the next election of Governors and (except where the vacancy arose through expiry of a term of office) the date on which would have expired the term of office of the Governor whose cessation of office gave rise to the vacancy.

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Annex 4 Further provisions for members

1 Annual Members' Meeting

- 1.1 The Chair of the Trust or, in their absence, the Deputy Chair or another Non-Executive Director, shall preside at the Annual Members' Meeting. For the avoidance of doubt, no Annual Members' Meeting may proceed in the absence of the Chair or a Non-Executive Director.
- 1.2 Before a members' meeting can do business there must be a quorum present. Except where this Constitution states otherwise a quorum is twenty (20) members with at least one (1) member present from each of the Trust's constituencies.
- 1.3 If a quorum is not present, no matter may be discussed or voted upon at that meeting and the meeting shall be adjourned. Such a position shall be recorded in the minutes of the meeting.
- 1.4 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 Board of Directors determine. If a quorum is not present within half an hour of the time fixed for the start of the adjourned meeting, the number of members present shall be a quorum.

2 Restriction on membership

- 2.1 An individual shall not become or continue as a member if:
 - 2.1.1 they are or wish to become a member of a Public Constituency and they do not or no longer reside within the relevant catchment area as set out in Annex 1;
 - 2.1.2 in the last 5 years prior to the individual's application for membership, the individual has been involved, as a perpetrator, in a serious incident of assault or violence, or in one or more incidents of harassment against any persons working for the Trust or any other NHS Body or any service users or carers or visitors to the Trust or any other NHS Body;
 - 2.1.3 in the last 5 years, the individual has been excluded from any of the Trust's premises from which services are provided;
 - 2.1.4 the individual is a vexatious complainant as determined by the Secretary; or
 - 2.1.5 the Council of Governors resolves that there are reasonable grounds to believe that the individual is likely to:
 - (a) prejudice the ability of the Trust to fulfil its Principal Purpose or other of its purposes under the Constitution or otherwise to discharge its duties and functions; or
 - (b) harm the Trust's work with other persons or bodies with whom it is engaged or may be engaged in the provision of goods and services; or
 - (c) adversely affects public confidence in the goods or services provided by the Trust; or
 - (d) otherwise bring the Trust into disrepute;

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- 2.1.6 the individual is a former employee of the Trust, and their contract has been terminated due to poor performance or misconduct.
- 2.2 No person who has been expelled from membership of the Trust is to be re-admitted as a member except by a resolution carried by the votes of two-thirds of the Council of Governors present and voting at a general meeting of the Council of Governors.

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Annex 5 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 consent and particulars
11. Declaration of interests
12. Declaration of eligibility
13. Signature of candidate
14. Decisions as to validity of nomination papers
15. Publication of statement of nominated candidates
16. Inspection of statement of nominated candidates and nomination papers
17. Withdrawal of candidates
18. Method of election

Part 5 – Contested elections

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

Action to be taken before the poll

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

The poll

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

Procedure for receipt of envelopes

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

Part 6 - Counting the votes

- stv36. Interpretation of Part 6
- 37. Arrangements for counting of the votes
- 38. The count
- stv39. Rejected ballot papers
- fpp39. Rejected ballot papers
- stv40. First stage
- stv41. The quota
- stv42. Transfer of votes
- stv43. Supplementary provisions on transfer
- stv44. Exclusion of candidates
- stv45. Filling of last vacancies
- stv46. Order of election of candidates
- fpp46. Equality of votes

Part 7 – Final proceedings in contested and uncontested elections

- fpp47. Declaration of result for contested elections
- stv47. Declaration of result for contested elections
- 48. Declaration of result for uncontested elections

Part 8 – Disposal of documents

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

Part 9 – Death of a candidate during a contested election

- fpp54. Countermand or abandonment of poll on death of candidate
- stv54. Countermand or abandonment of poll on death of candidate

Part 10 – Election expenses and publicity

Expenses

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

Publicity

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

Part 11 – Questioning elections and irregularities

- 61. Application to question an election

Part 12 – Miscellaneous

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

Part 1 - Interpretation

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

Part 2 – Timetable for election

2. Timetable - The proceedings at an election shall be conducted in accordance with the following timetable. Proceeding	Time
Publication of notice of election	Not later than the fortieth day before the day of the close of the poll.
Final day for delivery of nomination papers to returning officer	Not later than the twenty eighth day before the day of the close of the poll.
Publication of statement of nominated candidates	Not later than the twenty seventh day before the day of the close of the poll.
Final day for delivery of notices of withdrawals by candidates from election	Not later than twenty fifth day before the day of the close of the poll.
Notice of the poll	Not later than the fifteenth day before the day of the close of the poll.
Close of the poll	By 5.00pm on the final day of the election.

3. Computation of time - (1) In computing any period of time for the purposes of the timetable -
 (a) a Saturday or Sunday;
 (b) Christmas day, Good Friday, or a bank holiday, or
 (c) a day appointed for public thanksgiving or mourning,

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

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

Part 3 – Returning officer

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

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

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

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

(a) any expenses incurred by that officer in the exercise of his or her functions under these rules,

(b) such remuneration and other expenses as the corporation may determine.

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

Part 4 - Stages Common to Contested and Uncontested Elections

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

(a) the constituency, or class within a constituency, for which the election is being held,

(b) the number of members of the board of governors to be elected from that constituency, or class within that constituency,

(c) the details of any nomination committee that has been established by the corporation,

(d) the address and times at which nomination papers may be obtained;

(e) the address for return of nomination papers and the date and time by which they must be received by the returning officer,

(f) the date and time by which any notice of withdrawal must be received by the returning officer

(g) the contact details of the returning officer, and

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

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

(2) The returning officer-

(a) is to supply any member of the corporation with a nomination paper, and

(b) is to prepare a nomination paper for signature at the request of any member of the corporation,

but it is not necessary for a nomination to be on a form supplied by the returning officer.

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

(a) full name,

(b) contact address in full, and

(c) constituency, or class within a constituency, of which the candidate is a member.

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

(a) any financial interest that the candidate has in the corporation, and

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

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

- (a) that he or she is not prevented from being a member of the board of governors by paragraph 8 of Schedule 1 of the 2003 Act or by any provision of the constitution; and,
- (b) for a member of the public or patient constituency, of the particulars of his or her qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

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

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

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

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

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

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

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

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

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

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

(2) The statement must show –

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

(b) the declared interests of each candidate standing, as given in their nomination paper.

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

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

16. Inspection of statement of nominated candidates and nomination papers – (1)

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

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

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

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

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

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

(a) the candidates who remain validly nominated are to be declared elected in accordance with Part 7 of these rules, and

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

Part 5 – Contested elections

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

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

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

(2) Every ballot paper must specify –

(a) the name of the corporation,

(b) the constituency, or class within a constituency, for which the election is being held,

(c) the number of members of the board of governors to be elected from that constituency, or class within that constituency,

(d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,

(e) instructions on how to vote,

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(f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and

(g) the contact details of the returning officer.

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

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

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

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

(a) that the voter is the person to whom the ballot paper was addressed,

(b) that the voter has not marked or returned any other voting paper in the election, and

(c) for a member of the public or patient constituency, of the particulars of that member's qualification to vote as a member of the constituency or class within a constituency for which the election is being held.

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

(a) the name of the voter,

(b) the address of the voter,

(c) the voter's signature, and

(d) the date that the declaration was made by the voter.

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

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

Action to be taken before the poll

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

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

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

(a) the name of the corporation,

(b) the constituency, or class within a constituency, for which the election is being held,

(c) the number of members of the board of governors to be elected from that constituency, or class with that constituency,

(d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,

(e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,

(f) the address for return of the ballot papers, and the date and time of the close of the poll,

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(g) the address and final dates for applications for replacement ballot papers, and

(h) the contact details of the returning officer.

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

(a) a ballot paper and ballot paper envelope,

(b) a declaration of identity (if required),

(c) information about each candidate standing for election, pursuant to rule 59 of these rules, and

(d) a covering envelope.

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

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

(2) The covering envelope is to have –

(a) the address for return of the ballot paper printed on it, and

(b) pre-paid postage for return to that address.

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

(a) the completed declaration of identity if required, and

(b) the ballot paper envelope, with the ballot paper sealed inside it.

The poll

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

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

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

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

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

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

(a) is satisfied as to the voter’s identity, and

(b) has ensured that the declaration of identity, if required, has not been returned.

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

(a) the name of the voter, and

(b) the details of the unique identifier of the spoilt ballot paper (if that officer was able to obtain it), and

(c) the details of the unique identifier of the replacement ballot paper.

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

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

(a) is satisfied as to the voter’s identity,

(b) has no reason to doubt that the voter did not receive the original ballot paper, and

(c) has ensured that the declaration of identity if required has not been returned.

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

(a) the name of the voter, and

(b) the details of the unique identifier of the replacement ballot paper.

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

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

(a) the name of the voter, and

(b) the details of the unique identifier of the replacement ballot paper issued under this rule.

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

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

(a) that the voter has not voted in the election with any ballot paper other than the ballot paper being returned with the declaration, and

(b) of the particulars of that member’s qualification to vote as a member of the public or patient constituency, or class within a constituency, for which the election is being held.

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

(a) the name of the voter,

(b) the address of the voter,

(c) the voter’s signature, and

(d) the date that the declaration was made by the voter.

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

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

Procedure for receipt of envelopes

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

(a) covering envelope, or

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(b) any other envelope containing a declaration of identity if required, a ballot paper envelope, or a ballot paper, before the close of the poll, that officer is to open it as soon as is practicable; and rules 33 and 34 are to apply.

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

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

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

33. Validity of ballot paper –

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

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

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

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

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

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

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

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

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

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

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Part 6 - Counting the votes

stv36. Interpretation of Part 6 – In Part 6 of these rules –

“continuing candidate” means any candidate not deemed to be elected, and not excluded,
“count” means all the operations involved in counting of the first preferences recorded for candidates, the transfer of the surpluses of elected candidates, and the transfer of the votes of the excluded candidates,

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

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

“non-transferable vote” means a ballot paper –

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

(b) which is excluded by the returning officer under rule stv44(4) below,

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

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

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

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

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

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

“stage of the count” means –

(a) the determination of the first preference vote of each candidate,

(b) the transfer of a surplus of a candidate deemed to be elected, or

(c) the exclusion of one or more candidates at any given time,

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

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

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

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

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

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

(b) count the votes according to the provisions in this Part of the rules.

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

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

Stv39. Rejected ballot papers – (1) Any ballot paper –

(a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,

(b) on which the figure “1” standing alone is not placed so as to indicate a first preference for any candidate,

(c) on which anything is written or marked by which the voter can be identified except the unique identifier, or

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

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

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

fpp39. Rejected ballot papers – (1) Any ballot paper – (a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,

(b) on which votes are given for more candidates than the voter is entitled to vote,

(c) on which anything is written or marked by which the voter can be identified except the unique identifier, or

(d) which is unmarked or rejected because of uncertainty, shall, subject to paragraphs (2) and (3) below, be rejected and not counted.

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

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

(a) elsewhere than in the proper place,

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

(c) by more than one mark,

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

(4) The returning officer is to –

(a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and

(b) in the case of a ballot paper on which any vote is counted under paragraph (2) or (3) above, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

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(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.

stv40. First stage – (1) The returning officer is to sort the ballot papers into parcels according to the candidates for whom the first preference votes are given.

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

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

stv41. The quota – (1) The returning officer is to divide the number of valid ballot papers by a number exceeding by one the number of members to be elected.

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

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

stv42. Transfer of votes – (1) Where the number of first preference votes for any candidate exceeds the quota, the returning officer is to sort all the ballot papers on which first preference votes are given for that candidate into sub-parcels so that they are grouped –

(a) according to next available preference given on those papers for any continuing candidate, or

(b) where no such preference is given, as the sub-parcel of non-transferable votes.

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

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

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

(a) reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus, and

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

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

(a) according to the next available preference given on those papers for any continuing candidate, or

(b) where no such preference is given, as the sub-parcel of non-transferable votes.

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

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

(a) a transfer value calculated as set out in paragraph (4)(b) above, or

(b) at the value at which that vote was received by the candidate from whom it is now being transferred,

whichever is the less.

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

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

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

(a) less than the difference between the total vote then credited to the continuing candidate with the lowest recorded vote and the vote of the candidate with the next lowest recorded vote, or

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

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

stv43. Supplementary provisions on transfer – (1) If, at any stage of the count, two or more candidates have surpluses, the transferable papers of the candidate with the highest surplus shall be transferred first, and if –

(a) The surpluses determined in respect of two or more candidates are equal, the transferable papers of the candidate who had the highest recorded vote at the earliest preceding stage at which they had unequal votes shall be transferred first, and

(b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot, and the transferable papers of the candidate on whom the lot falls shall be transferred first.

(2) The returning officer shall, on each transfer of transferable papers under rule stv42 above –

(a) record the total value of the votes transferred to each candidate,

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

(c) record as non-transferable votes the difference between the surplus and the total transfer value of the transferred votes and add that difference to the previously recorded total of non-transferable votes, and

(d) compare—

(i) the total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes, with

(ii) the recorded total of valid first preference votes.

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

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

stv44. Exclusion of candidates – (1) If—

(a) all transferable papers which under the provisions of rule stv42 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and

(b) subject to rule stv45 below, one or more vacancies remain to be filled, the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where paragraph (12) below applies, the candidates with the then lowest votes).

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

(a) ballot papers on which a next available preference is given, and

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

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

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

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

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

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

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

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

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

(a) record –

(i) the total value of votes, or

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

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

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(c) record the value of non-transferable votes and add that value to the previous non-transferable votes total, and

(d) compare—

(i) the total number of votes then recorded for each candidate together with the total number of non-transferable votes, with

(ii) the recorded total of valid first preference votes.

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

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

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

(a) regard shall be had to the total number of votes credited to those candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded, and

(b) where the number of votes credited to those candidates was equal at all stages, the returning officer shall decide between the candidates by lot and the candidate on whom the lot falls shall be excluded.

stv45. Filling of last vacancies – (1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

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

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

stv46. Order of election of candidates – (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule stv42(10) above.

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

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

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

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fpp46. Equality of votes – Where, after the counting of votes is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer is to decide between those candidates by a lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Part 7 – Final proceedings in contested and uncontested elections

fpp47. Declaration of result for contested elections – (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to –

(a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the board 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 4(4) of the 2003 Act, to the chairman of the NHS Trust, or

(ii) in any other case, to the chairman of the corporation; and

(c) give public notice of the name of each candidate whom he or she has declared elected.

(2) The returning officer is to make –

(a) the total number of votes given for each candidate (whether elected or not), and

(b) the number of rejected ballot papers under each of the headings in rule fpp39(5),

available on request.

stv47. Declaration of result for contested elections – (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to—

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

(b) give notice of the name of each candidate who he or she has declared elected –

(i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 4(4) of the 2003 Act, to the 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.

(2) The returning officer is to make –

(a) the number of first preference votes for each candidate whether elected or not,

(b) any transfer of votes,

(c) the total number of votes for each candidate at each stage of the count at which such transfer took place,

(d) the order in which the successful candidates were elected, and

(e) the number of rejected ballot papers under each of the headings in rule stv39(1), available on request.

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

(a) declare the candidate or candidates remaining validly nominated to be elected,

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

Part 8 – Disposal of documents

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

- (a) the counted ballot papers,
 - (b) the ballot papers endorsed with “rejected in part”,
 - (c) the rejected ballot papers, and
 - (d) the statement of rejected ballot papers.
- (2) The returning officer must not open the sealed packets of –
- (a) the disqualified documents, with the list of disqualified documents inside it,
 - (b) the declarations of identity,
 - (c) the list of spoiled ballot papers,
 - (d) the list of lost ballot papers,
 - (e) the list of eligible voters, and
 - (f) the list of tendered ballot papers.
- (3) The returning officer must endorse on each packet a description of –
- (a) its contents,
 - (b) the date of the publication of notice of the election,
 - (c) the name of the corporation to which the election relates, and
 - (d) the constituency, or class within a constituency, to which the election relates.

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

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

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

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

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

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

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

53. Application for inspection of certain documents relating to an election – (1) The corporation may not allow the inspection of, or the opening of any sealed packet containing

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

by any person without the consent of the Regulator.

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

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

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

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

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

- (a) in giving its consent, the regulator, and

(b) and making the documents available for inspection, the corporation, must ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established –

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

Part 9 – Death of a candidate during a contested election

fpp54. Countermand or abandonment of poll on death of candidate – (1) If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to

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

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

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

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

(5) The returning officer is to –

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

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

stv54. Countermand or abandonment of poll on death of candidate – (1) If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to –

- (a) publish a notice stating that the candidate has died, and
- (b) proceed with the counting of the votes as if that candidate had been excluded from the count so that –
 - (i) ballot papers which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted, and
 - (ii) ballot papers which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences marked for the candidate who has died.
- (2) The ballot papers which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot papers pursuant to rule 49(1)(a).

Part 10 – Election expenses and publicity
Election expenses

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

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

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

57. Election expenses incurred by other persons –

- (1) No person may -
 - (a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise, or
 - (b) give a candidate or his or her family any money or property (whether as a gift, donation, loan, or otherwise) to meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.
- (2) Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 58 and 59.

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Publicity

58. Publicity about election by the corporation –

- (1) The corporation may –
- (a) compile and distribute such information about the candidates, and
 - (b) organise and hold such meetings to enable the candidates to speak and respond to questions,
- as it considers necessary.
- (2) Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 59, must be –
- (a) objective, balanced and fair,
 - (b) equivalent in size and content for all candidates,
 - (c) compiled and distributed in consultation with all of the candidates standing for election, and
 - (d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.
- (3) Where the corporation proposes to hold a meeting to enable the candidates to speak, the corporation must ensure that all of the candidates are invited to attend, and in organising and holding such a meeting, the corporation must not seek to promote or procure the election of a specific candidate or candidates at the expense of the electoral prospects of one or more other candidates.

59. Information about candidates for inclusion with voting documents - (1) The corporation must compile information about the candidates standing for election, to be distributed by the returning officer pursuant to rule 24 of these rules.

- (2) The information must consist of –
- (a) a statement submitted by the candidate of no more than [250] words, [and]
 - [(b) a photograph of the candidate.]

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

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

Part 11 – Questioning elections and the consequence of irregularities

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

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

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

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

(4) The application must –

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

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

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

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

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

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

Part 12 – Miscellaneous

62. Secrecy – (1) The following persons –

(a) the returning officer,

(b) the returning officer’s staff,

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

(i) the name of any member of the corporation who has or has not been given a ballot paper or who has or has not voted,

(ii) the unique identifier on any ballot paper,

(iii) the candidate(s) for whom any member has voted.

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

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

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

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

(a) a member of the corporation,

(b) an employee of the corporation,

(c) a director of the corporation, or

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

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

(a) the delivery of the documents in rule 24, or

(b) the return of the ballot papers and declarations of identity, the returning officer may extend the time between the publication of the notice of the poll and the close of the poll, with the agreement of the Regulator.

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The Queen Elizabeth Hospital King's Lynn NHS Foundation Trust

Constitution

A PUBLIC BENEFIT CORPORATION

Version dated: March 2026

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The Queen Elizabeth Hospital King's Lynn NHS Foundation Trust
Constitution

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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.
- 1.2 References in this Constitution to legislation include all amendments, replacements and re-enactments made and include all subordinate legislation made thereunder.
- 1.3 Headings are for ease of reference only and are not to affect interpretation.
- 1.4 References to paragraphs are to paragraphs in this Constitution save that where there is a reference to a paragraph in an annex or appendix to this Constitution it shall be a reference to a paragraph in that annex or appendix unless the contrary is expressly stated, or the context otherwise so requires.
- 1.5 Words importing the masculine gender only shall include the feminine gender; words importing the singular shall import the plural and vice-versa.
- 1.6 In this Constitution:

The **2006 Act** is the National Health Service Act 2006.

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

The **2022 Act** is the Health and Care Act 2022.

The **Accounting Officer** is the Chief Executive who discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act.

Annual Members' Meeting is the annual meeting of the members of the Trust in accordance with paragraph 12 of this Constitution.

Auditor means an individual or organisation appointed by the Trust's Council of Governors in accordance with paragraph 23 of Schedule 7 to the 2006 Act to evaluate and verify the accuracy of the financial records and accounting practices of the Trust.

Board of Directors is the board of directors of the Norfolk and Waveney University Hospitals Group, as constituted in accordance with this Constitution and the Constitutions of other Foundation Trusts in the Group.

The **Chair** means the Norfolk and Waveney University Hospitals Group Chair.

The **Chief Executive** means the Norfolk and Waveney University Hospitals Group Chief Executive Officer.

The **Code of Conduct for Directors** means the Trust's code of conduct for the Directors as adopted by the Trust from time to time.

The **Code of Conduct for Governors** means the Trust's code of conduct for the Governors as adopted by the Trust and the Council of Governors from time to time.

Constitution means this constitution and all annexes to it.

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Council of Governors is the Council of Governors of the Trust as constituted in accordance with this Constitution.

Days mean calendar days for the purposes of this Constitution, unless otherwise specified.

Deputy Chair means one Non-Executive Director appointed by the Board of Directors to act as the Chair of the Trust in certain circumstances.

Director means a voting member of the Board of Directors.

Financial Year means each successive period of twelve (12) months beginning with 1 April and ending on 31 March.

Health Overview and Scrutiny Committee means a local authority committee in accordance with regulations made further to paragraph 244 of the 2006 Act and includes joint Health Overview and Scrutiny Committees established by more than one local authority further to paragraph 245 of the 2006 Act.

Healthwatch means (1) the committee of the Care Quality Commission established under paragraph 6 of Schedule 1 of the Health and Social Care Act 2008 known as Healthwatch England; and (2) any local Healthwatch organisation with the functions set out in paragraph 221 of Local Government and Public Involvement in Health Act 2007 relating to service user and public involvement in healthcare.

Integrated Care Board (ICB) means an integrated care board established under Chapter A3 of Part 2 of the 2006 Act.

Meeting of the Board of Directors means a duly convened meeting of the Board of Directors.

Model Election Rules means those election rules as published by NHS Providers from time to time.

NHS England is the body corporate known as NHS England, established under section 1H of the 2006 Act.

Partnership Organisation means a partnership organisation for the purposes of paragraph 9(7) of Schedule 7 to the 2006 Act.

Public Constituency means those who live in an area specified in Annex 1 of this Constitution as an area for any public constituency of the Trust as constituted in accordance with paragraph 9 of this Constitution.

Significant Transaction is not defined in this Constitution.

Staff Constituency means those individuals who are members of Trust staff and as constituted in accordance with paragraph 10 of this Constitution.

Statutory Transaction means a merger under section 56 of the 2006 Act, an acquisition under section 56A of the 2006 Act, a separation under section 56B of the 2006 Act, or dissolution under section 57A of the 2006 Act.

The **Terms of Reference** means the terms of reference adopted by any committees or other groups of the Trust and which are set out in the Trust's Governance Manual, and which may be updated from time to time.

The **Trust** means The Queen Elizabeth Hospital King's Lynn NHS Foundation Trust.

Trust Secretary is the person appointed by the Board to act as secretary to the Trust, responsible for providing independent governance advice to the Chair, Chief Executive, Board of Directors, and Council of Governors from time to time.

Voluntary organisation means a body, other than a public or local authority, the activities of which are not carried on for profit.

2 Name

2.1 The name of the foundation trust is The Queen Elizabeth Hospital King's Lynn NHS Foundation Trust (the '**Trust**').

3 Principal Purpose

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

3.2 The Trust does not fulfil its principal purpose unless, in each Financial Year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.

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

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

3.3.2 the promotion and protection of public health.

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

4 Powers

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

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

4.3 Subject to paragraphs 4.4 (or as otherwise provided by section 45 of the Mental Health Act 2007) and 5, any of these powers may be delegated to a committee of Directors or to an Executive Director.

4.4 The Board of Directors may authorise any three or more persons each of whom is neither an Executive Director of the Trust nor an employee of the Trust to exercise powers conferred on the Trust by section 45 of the Mental Health Act 2007.

4.5 The Trust shall exercise its functions effectively, efficiently and economically.

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- 4.6 Subject to paragraph 4.7 below and having regard to any guidance published by NHS England, in making a decision about the exercise of its functions, the Trust shall have regard to all likely effects of the decision in relation to:
- 4.6.1 the health and wellbeing of the people of England;
 - 4.6.2 the quality of services provided to individuals by relevant bodies, or in pursuance of arrangements made by relevant bodies, for or in connection with the prevention, diagnosis or treatment of illness, as part of the health service in England; and
 - 4.6.3 efficiency and sustainability in relation to the use of resources by relevant bodies for the purposes of the health service in England.
- 4.7 The requirement to have regard to the wider effect of its decisions set out at paragraph 4.6 shall not apply to decisions about services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness.
- 4.8 In paragraph 4.6 'relevant bodies' has the meaning set out in paragraph 63A (4) of the 2006 Act.
- 4.9 In exercising its functions, the Trust shall have regard to the need to contribute towards compliance with the UK net zero emissions target set out at section 1 of the Climate Change Act 2008 and the environmental targets set out at section 5 of the Environment Act 2021, and to adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008. In doing so, the Trust shall also have regard to guidance published by NHS England.
- 4.10 The Trust may do anything which appears to it to be necessary or expedient for the purposes of or in connection with its functions.

5 Joint working and delegation arrangements

- 5.1 Subject to paragraph 5.2 the Trust may arrange in accordance with section 65Z5 of the 2006 Act for the joint exercise of functions with any one or more of the following bodies:
- 5.1.1 a relevant body;
 - 5.1.2 a local authority;
 - 5.1.3 a combined authority;
 - 5.1.4 a combined county authority
- 5.2 Where the Trust has entered into arrangements for the joint exercise of functions with one or more bodies in accordance with paragraph 5.1, it may make arrangements for:
- 5.2.1 the function to be exercised by a joint committee of theirs;
 - 5.2.2 for one or more of them, or a joint committee of them, to establish and maintain a pooled fund.

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5.3 The Trust must have regard to any guidance published by NHS England under section 65Z7.

5.4 In this paragraph 5 the following terms have the following meanings:

5.4.1 'Relevant body' has the meaning set out in section 65Z5(2) of the 2006 Act

5.4.2 'Local authority' means a local authority within the meaning of section 2B of the 2006 Act

5.4.3 'Combined authority' has the meaning set out in section 275 of the 2006 Act

5.4.4 'Pooled fund' has the meaning set out in section 65Z6(3) of the 2006 Act.

6 Duties relating to Integrated care system financial controls

6.1 The Trust must seek to achieve financial objectives that apply to it under section 223L of the 2006 Act.

6.2 The Trust must exercise its functions with a view to ensuring that it complies with its duties under section 223M and section 223N of the 2006 Act to limit local capital resource use and local revenue resource use.

7 Membership and Constituencies

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

7.1.1 a Public Constituency;

7.1.2 the Staff Constituency.

8 Application for membership

An individual who is eligible to become a member of the Trust may do so on application to the Trust in accordance with this Constitution, with the exception of individuals who are eligible to become members of the Staff Constituency, who shall automatically become members in accordance with paragraph 10.6.

9 Public Constituencies

9.1 An individual who lives in an area specified in Annex 1 as an area for a Public Constituency may become or continue as a member of the Trust.

9.2 Those individuals who live in an area specified for a Public Constituency are referred to collectively as a Public Constituency.

9.3 The minimum number of members in each Public Constituency is specified in Annex 1.

10 Staff Constituency

10.1 An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a member of the Trust provided:

- 10.1.1 they are employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least twelve (12) months; or
 - 10.1.2 they have been continuously employed by the Trust under a contract of employment for at least twelve (12) months; and
 - 10.1.3 they have not been disqualified or restricted from membership in accordance with paragraph 11 of this Constitution.
- 10.2 Individuals who exercise functions for the purposes of the Trust, otherwise than under a contract of employment with the Trust, may become or continue as members of the staff constituency provided such individuals have exercised these functions continuously for a period of at least 12-months and will include:
- 10.2.1 academic staff employed by a university and working in the Trust for 12-months or more;
 - 10.2.2 volunteers who have worked within the Trust for 12-months or more;
 - 10.2.3 staff employed by independent contractors who exercise functions for the purposes of the Trust and who have worked within the Trust for 12-months or more.
- 10.3 Those individuals who are eligible for membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.
- 10.4 The Staff Constituency shall be divided into two descriptions of individuals who are eligible for membership of the Staff Constituency, each description of individuals being specified within Annex 2 and being referred to as a class within the Staff Constituency.
- 10.5 The minimum number of members in each class in the Staff Constituency is specified in Annex 2.
- 10.6 An individual who is:
- 10.6.1 eligible to become a member of the Staff Constituency; and
 - 10.6.2 invited by the Trust to become a member of the Staff Constituency,
- shall become a member of the Trust as a member of the appropriate class within the Staff Constituency without an application being made, unless they inform the Trust that they do not wish to do so.

11 Restriction on membership

- 11.1 An individual who is a member of a constituency, or of a class within a constituency, may not while membership of that constituency or class continues, be a member of any other constituency or class.
- 11.2 An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any constituency other than the Staff Constituency.
- 11.3 An individual must be at least sixteen (16) years old to become a member of the Trust.

11.4 A member shall otherwise cease to be a member of the Trust in the following circumstances:

11.4.1 they resign by notice to the Trust;

11.4.2 if the Trust reasonably believes that the member no longer lives at their registered address and the Trust does not know where that member lives.

11.5 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Trust are set out in Annex 4.

12 Annual Members' Meeting

12.1 The Trust shall hold an Annual Members' Meeting within nine (9) months of the end of each Financial Year. The Annual Members' Meeting shall be open to members of the public.

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

13 Council of Governors – Composition

13.1 The Trust is to have a Council of Governors, which shall comprise both Elected and Appointed Governors.

13.2 The composition of the Council of Governors is specified in Annex 3.

13.3 The members of the Council of Governors, other than the Appointed Governors, shall be chosen by election by their constituency. The number of Governors to be elected by each constituency is specified in Annex 3.

13.4 No person shall be eligible to be elected or appointed (as the case may be) a Governor in accordance with the terms of this Constitution unless at the date of their nomination for election or upon the date of their appointment they have attained the age of sixteen (16) years. Persons who are eligible under this paragraph 13.4 shall be eligible for appointment or election under the provisions of this paragraph 13.

Public Governors

13.5 Members of the Public Constituency may vote for any eligible member to be a Public Governor, subject to paragraphs 13.6 and 13.7 below.

13.6 A person shall not stand for election to the Council of Governors as a Public Governor unless they have made a declaration in a form specified by the Trust Secretary.

13.7 A Public Governor shall not vote at a meeting of the Council of Governors unless within the previous twelve (12) months they have made, in a form specified by the Trust Secretary, a declaration of eligibility to vote.

13.8 The declarations required under 13.6 and 13.7 above and the equivalent provisions of the declaration required under the Model Election Rules are required by section 60 of the 2006 Act. It is a criminal offence knowingly or recklessly to make a declaration under section 60 of the 2006 Act which is false in a material particular.

Staff Governors

- 13.9 Members of the Staff Constituency may vote for any eligible member to be a Staff Governor.

Appointed Governors

- 13.10 The following local authorities shall be entitled to appoint one (1) Local Authority Governor each:

13.10.1 Norfolk County Council

13.10.2 Borough Council of King's Lynn and West Norfolk

13.10.3 Breckland District Council

- 13.11 There shall be one (1) Appointed Governor appointed by each Partnership Organisation as set out in Annex 3.

- 13.12 No defect or deficiency in the appointment or composition of the members of the Council of Governors shall affect the validity of any decision or action taken by them.

14 Council of Governors – election of Governors

- 14.1 Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules on the basis of single transferable vote (STV) polling and the Model Election Rules shall be construed accordingly.

- 14.2 The Model Election Rules as published from time to time by NHS Providers form part of this Constitution. A copy of the Model Election Rules as at the date of this Constitution is included at Annex 5 of this Constitution. References in the Model Election Rules to Monitor shall be construed as references to NHS England.

- 14.3 A subsequent variation of the Model Election Rules by NHS Providers shall not constitute a variation of the terms of this Constitution for the purposes of paragraph 44 of this Constitution (amendment of the Constitution).

- 14.4 An election, if contested, shall be by secret ballot.

15 Council of Governors - tenure

- 15.1 An Elected Governor may hold office for a term of three (3) years.

- 15.2 An Elected Governor shall cease to hold office if they cease to be a member of the constituency by which they were elected, or if they are disqualified for any of the reasons set out in this Constitution. For the avoidance of doubt, this includes a Public Governor moving their principal residence from one Public Constituency to another.

- 15.3 An Elected Governor shall be eligible for re-election at the end of their term for a further three-year term.

- 15.4 An Elected Governor may not hold office for more than nine (9) consecutive years, or three full terms of office.

- 15.5 An Elected Governor completing the maximum term of office of nine (9) years, or nine (9) years within a preceding twelve (12) year period, may not stand to for re-election for a period of three (3) years.
- 15.6 An Appointed Governor may hold office for a period of three (3) years commencing from receipt of their formal nomination by their nominating local authority or Partnership Organisation.
- 15.7 An Appointed Governor shall cease to hold office if the nominating Partnership Organisation withdraws its sponsorship and the Trust has been notified that the sponsorship has been terminated.
- 15.8 An Appointed Governor shall be eligible for re-appointment at the end of their term for a further three-year term.
- 15.9 An Appointed Governor may not hold office for longer than nine (9) consecutive years, or three full terms of office.
- 15.10 An Appointed Governor completing the maximum term of office of nine (9) years, or nine (9) years within a preceding twelve (12) year period, may not stand for re-election to the Council for a period of three (3) years.
- 15.11 For the purposes of this paragraph 15, concerning the term of office for Governors, a 'year' means a period commencing immediately after the conclusion of their election or appointment.

16 Council of Governors – appointment of a Lead Governor

- 16.1 The Governors shall nominate one (1) of the Governors to be Lead Governor. The role of the Lead Governor will be to facilitate communication between NHS England and the Council of Governors in circumstances where it would not be appropriate to communicate through the normal channels such as via the Chair or the Trust Secretary.

17 Council of Governors – disqualification and removal

- 17.1 The following may not become or continue as a member of the Council of Governors:
 - 17.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
 - 17.1.2 a person in relation to whom a moratorium period under a debt relief order applies (under part 7A of the Insolvency Act 1986);
 - 17.1.3 a person who has made a composition or arrangement with, or granted a Trust deed for, their creditors and has not been discharged in respect of it; and/or
 - 17.1.4 a person who within the preceding five (5) years has been convicted anywhere in the world of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three (3) months (without the option of a fine) was imposed on them.
- 17.2 Governors must be at least sixteen (16) years of age at the date they are nominated for election or appointment.

17.3 A Governor may resign from that office at any time during their term by giving notice in writing to the Secretary or the Chair, such notice is to specify the date of resignation.

17.4 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors are set out in Annex 3.

18 Council of Governors – duties of Governors

18.1 The general duties of the Council of Governors are:

18.1.1 to hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors; and

18.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public.

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

18.3 All Governors shall comply with the Code of Conduct for Governors.

19 Council of Governors – meetings of Governors

19.1 The Council of Governors shall meet at least four (4) times in each Financial Year at such time and places as the Chair may determine from time to time.

19.2 The Chair of the Trust or, in their absence, the Deputy Chair or another Non-Executive Director, shall preside at meetings of the Council of Governors. For the avoidance of doubt, no meetings of the Council of Governors may proceed in the absence of the Chair or a Non-Executive Director.

19.3 Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons, including, but not limited to, reasons of commercial confidentiality; and/or interference with or preventing the proper conduct of the meeting.

19.4 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 (1) or more of the Directors to attend a meeting.

20 Council of Governors – referral to NHS England

20.1 A Governor of an NHS Foundation Trust may refer a question to NHS England through the Lead Governor where they are concerned that the Trust has failed or is failing:

20.1.1 to act in accordance with its Constitution; or

20.1.2 to act in accordance with any provision made by or under chapter 5 of the 2006 Act.

20.2 A referral to NHS England will only be made where more than half of the members of the Council of Governors vote to approve the referral.

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21 Council of Governors - conflicts of interest of Governors

- 21.1 If a Governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the Governor shall disclose that interest to the members of the Council of Governors as soon as they become aware of it. The standing orders for the Council of Governors shall make provision for the disclosure of interests and arrangements for the exclusion of a Governor declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.
- 21.2 Further provision for dealing with Governor conflicts of interest shall be set out in the standing orders for the practice and procedure of the Council of Governors contained in the Trust's Governance Manual.

22 Council of Governors – travel expenses

- 22.1 Members of the Council of Governors may claim travelling and other expenses at rates determined by the Trust.

23 Council of Governors – standing orders

- 23.1 The standing orders for the practice and procedure of the Council of Governors and further provisions relating to the Council of Governors are contained in the Trust's Governance Manual.

24 Board of Directors – composition

- 24.1 The Trust is part of the Norfolk and Waveney Hospitals Group. The Group has a Group Board which shall comprise both Executive and Non-Executive Directors, including a single Group Chair. The Non-Executive Directors will always form the majority of the Board of Directors.
- 24.2 Subject to the requirements of paragraph 24.1 above, the Board of Directors is to comprise:
- 24.2.1 a Non-Executive Chair;
 - 24.2.2 not less than four (4) but no more than eleven (11) other Non-Executive Directors; and
 - 24.2.3 not less than four (4) but no more than six (6) Executive Directors.
- 24.3 One (1) of the Executive Directors shall be the Group Chief Executive.
- 24.4 The Group Chief Executive shall be the Accounting Officer.
- 24.5 One (1) of the Executive Directors shall be the Finance Director.
- 24.6 One (1) of the Executive Directors is to be a registered medical practitioner or dentist.
- 24.7 One (1) of the Executive Directors is to be a registered nurse or midwife.
- 24.8 The validity of any act of the Board or the Trust is not affected by any vacancy among the Directors or by any defect in the appointment of any Director.

25 Board of Directors – general duty

25.1 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.

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

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

26.1.1 they are a member of a Public Constituency; or

26.1.2 where any of the Trust's hospitals includes a medical or dental school provided by a university, they exercise functions for the purposes of that university; and

26.1.3 they are not disqualified by virtue of paragraph 29 below.

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

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

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

27.3 The Board of Directors may in consultation with the Council of Governors appoint a Non-Executive Director, to be the Senior Independent Director, for such a period not exceeding the remainder of their term as a Director.

27.4 The Chair and Non-Executive Directors will normally be appointed for a term of three (3) years and, subject to the approval of the Council of Governors, may be re-appointed for subsequent terms up to a maximum term of office of nine (9) years.

27.5 Further provisions with respect to the appointment and removal of the Chair, Senior Independent Director and other Non-Executive Directors are set out in the standing orders for the practice and procedure of the Board of Directors contained within the Trust's Governance Manual.

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

28.1 The Chair and Non-Executive Directors shall appoint or remove the Chief Executive.

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

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

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29 Board of Directors – disqualification

- 29.1 The following may not become or continue as a member of the Board of Directors:
- 29.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
 - 29.1.2 a person in relation to whom a moratorium period under a debt relief order applies (under part 7A of the Insolvency Act 1986);
 - 29.1.3 a person who has made a composition or arrangement with, or granted a Trust deed for, their creditors and has not been discharged in respect of it;
 - 29.1.4 a person who within the preceding five (5) years has been convicted anywhere in the world of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three (3) months (without the option of a fine) was imposed on them;
 - 29.1.5 a person who is a member of Healthwatch;
 - 29.1.6 a person who is a spouse, partner, parent or child of a member of the Board of Directors of the Trust;
 - 29.1.7 a person who is a member of a local authority's Health Overview and Scrutiny Committee;
 - 29.1.8 a person who is the subject of a disqualification order made under the Company Directors Disqualification Act 1986;
 - 29.1.9 a person whose tenure of office as a Chair or as a member or director of an NHS 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;
 - 29.1.10 a person who within the preceding five (5) years has been dismissed, otherwise than by reason of redundancy from any paid employment with an NHS body and not reinstated;
 - 29.1.11 a person who is otherwise disqualified by law from acting as a director of an NHS foundation trust;
 - 29.1.12 in the case of a Non-Executive Director, a person who has refused without reasonable cause to fulfil any training requirement established by the Board of Directors;
 - 29.1.13 a person who has had his name removed from a list maintained under the regulations pursuant of Sections 91, 106, 123 or 146 of the 2006 Act, or the equivalent lists maintained by local health boards in Wales under the National Health Services (Wales) Act 2006, and they have not subsequently had their name included in such a list;
 - 29.1.14 a person who is subject to a Sex Offenders Order (under the Sex Offenders Act 1997 as amended by the Sexual Offences Act 2003) and/or whose name is included in the Sex Offender Register (established under the Sexual Offences Act 2003);

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- 29.1.15 a person who is incapable by reason of mental disorder, injury or illness of managing and administering their property and affairs;
- 29.1.16 a person who fails to meet the requirements of the fit and proper person test set out in regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014; or
- 29.1.17 a person who has refused to sign and deliver to the Trust Secretary a statement in the form required by the Board of Directors within one (1) calendar month of appointment confirming acceptance of the Code of Conduct for Directors.

29.2 Any person who is disqualified from becoming or continuing as a Director on any of the grounds as set out in this paragraph 29 shall immediately resign as a Director of the Trust or if they decline or fail to do so shall be removed immediately by the Board of Directors and a new Director appointed in their place in accordance with the provisions in this Constitution.

30 Board of Directors – meetings

- 30.1 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons including, but not limited to, reasons of commercial confidentiality; and/or interference with or preventing proper conduct of the meeting.
- 30.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

31 Board of Directors – Standing orders

- 31.1 The standing orders for the practice and procedure of the Board of Directors are set out in the Trust’s Governance Manual.

32 Board of Directors - conflicts of interest of Directors

- 32.1 The duties that a Director of the Trust has by virtue of being a Director include in particular:
 - 32.1.1 a duty to avoid a situation in which the Director has (or can have) a direct or indirect interest that conflicts (or possibly may conflict) with the interests of the Trust; and
 - 32.1.2 a duty not to accept a benefit from a third party by reason of being a Director or doing (or not doing) anything in that capacity.
- 32.2 The duty referred to in paragraph 32.1.1 is not infringed if:
 - 32.2.1 the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or
 - 32.2.2 the matter has been authorised in accordance with the Constitution.
- 32.3 The duty referred to in paragraph 32.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

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- 32.4 In sub-paragraph 32.1.2, “third party” means a person other than:
- 32.4.1 the Trust; or
- 32.4.2 a person acting on its behalf.
- 32.5 Directors shall disclose to the Board of Directors the nature and extent of any material interests whether direct or indirect (as defined below) held by a Director, their spouse or partner, which shall be recorded in the register of interests of the Directors.
- 32.6 A direct or indirect interest is:
- 32.6.1 any interest (excluding a holding of shares in a company whose shares are listed on any public exchange where the holding is less than 2% of the total shares in issue) or position held by a Director in any firm, company or business which has or is likely to have a trading or commercial relationship with the Trust;
- 32.6.2 any interest in an organisation providing health and social care services to the national health service;
- 32.6.3 a position of authority in a charity or voluntary organisation in the field of health and social care; or
- 32.6.4 any connection with any organisation, entity or company considering entering into a financial arrangement with the Trust including but not limited to lenders or banks.
- 32.7 Any Director who has an interest either direct or indirect in a matter to be considered by the Board of Directors (whether because the matter involves a firm, company, business or organisation in which the Director or their spouse or partner has a direct or indirect interest or otherwise) shall declare the nature and extent of such interest to the Board of Directors and that Director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- 32.8 If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.
- 32.9 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.
- 32.10 This paragraph does not require a declaration of an interest of which the Director is not aware or where the Director is not aware of the transaction or arrangement in question.
- 32.11 A Director need not declare an interest:
- 32.11.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
- 32.11.2 if, or to the extent that, the Directors are already aware of it;
- 32.11.3 if, or to the extent that, it concerns terms of the Director’s appointment that have been or are to be considered:

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- (a) by a meeting of the Board of Directors; or
- (b) by a committee of the Directors appointed for the purpose under this Constitution.

32.12 However, if paragraph 32.13 applies, a Director who is interested in an actual or proposed matter to be considered by the Board of Directors is to be counted as participating in the decision making process for quorum and voting purposes.

32.13 A matter shall have been authorised for the purposes of paragraph 32.2.2 if:

32.13.1 the Board of Directors by majority disapplies the provision of the Constitution which would otherwise prevent a Director from being counted as participating in the decision-making process;

32.13.2 the Director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or

32.13.3 the Director's conflict of interest arises from a permitted cause.

32.13.4 For the purposes of paragraph 32.13.3, the following is a permitted cause:

- (a) a guarantee given, or to be given, by or to a Director in respect of an obligation incurred by or on behalf of the Trust or any of its subsidiaries.

for the purposes of this paragraph, references to proposed decisions and decision-making processes include any Directors' meeting or part of a Directors' meeting.

32.14 Subject to paragraph 32.15, if a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chair whose ruling in relation to any Director other than the Chair is to be final and conclusive.

32.15 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chair, the question is to be decided by a decision of the Directors at that meeting, for which purpose the Chair is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

32.16 Should an interest in a matter for consideration or decision at a board meeting or board committee meeting affect either all the Non-Executive Directors or all the Executive Directors, the Directors present not affected by the interest will form the quorum for that item.

33 Board of Directors – remuneration and terms of office

The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chair and the other Non-Executive Directors. In doing so, the Council of Governors shall have regard to NHS England's guidance on remuneration for non-executive directors.

33.2 A committee of the Chair and the Non-Executive Directors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other Executive Directors.

34 Registers

34.1 The Trust shall have:

34.1.1 a register of members showing, in respect of each member, the constituency to which they belong;

34.1.2 a register of members of the Council of Governors;

34.1.3 a register of interests of Governors;

34.1.4 a register of Directors; and

34.1.5 a register of interests of the Directors.

35 Admission to and removal from the registers

35.1 The Trust Secretary 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, and membership shall only formally commence once that name has been entered into the register.

35.2 The Trust Secretary shall remove from the register of Governors the name of any member who ceases to be a Governor under the provisions of this Constitution.

35.3 The Trust Secretary shall remove from the register of Directors the name of any Director who ceases to be a Director under the provisions of this Constitution.

36 Registers – inspection and copies

36.1 The Trust shall make the registers specified in paragraph 34 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

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

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

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

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

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

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37 Documents available for public inspection

- 37.1 The Trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times:
- 37.1.1 a copy of the current Constitution;
 - 37.1.2 a copy of the latest annual accounts and of any report of the Auditor on them; and
 - 37.1.3 a copy of the latest annual report.
- 37.2 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:
- 37.2.1 a copy of any order made under section 65D (appointment of Trust special administrator); section 65J (power to extend time); section 65KC (action following Secretary of State's rejection of final report); section 65L (Trusts coming out of administration); or section 65LA (Trusts to be dissolved) of the 2006 Act;
 - 37.2.2 a copy of any report laid under section 65D (appointment of Trust special administrator) of the 2006 Act;
 - 37.2.3 a copy of any information published under section 65D (appointment of Trust special administrator) of the 2006 Act;
 - 37.2.4 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;
 - 37.2.5 a copy of any notice published under section 65F (administrator's draft report); section 65G (consultation plan); section 65H (consultation requirements); section 65J (power to extend time); section 65KA (NHS England's decision), section 65KB (Secretary of State's response to NHS England's decision), section 65KC (action following Secretary of State's rejection of final report); or section 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act;
 - 37.2.6 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;
 - 37.2.7 a copy of any final report published under section 65I (administrator's final report);
 - 37.2.8 a copy of any statement published under section 65J (power to extend time); or section 65KC (action following Secretary of State's rejection of final report) of the 2006 Act; and
 - 37.2.9 a copy of any information published under section 65M (replacement of Trust special administrator) of the 2006 Act.
- 37.3 Any person who requests a copy of or extract from any of the above documents is to be provided with a copy.

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

38 Auditor

38.1 The Trust shall have an Auditor.

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

38.3 A person may only be appointed as the Auditor if they (or in the case of a firm, each of its members) are eligible to become an Auditor in accordance with paragraph 23 of Schedule 7 to the 2006 Act.

38.4 The Auditor is to carry out its duties in accordance with Schedule 10 of the 2006 Act and in accordance with any directions given by NHS England on standards, procedures and techniques to be adopted.

39 Audit Committee

39.1 The Trust shall establish a committee consisting of at least three (3) independent Non-Executive Directors as an Audit Committee to perform such monitoring, reviewing and other functions as are appropriate.

40 Accounts

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

40.2 NHS England may with the approval of the Secretary of State give directions to the Trust as to the content and form of its accounts.

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

40.4 The Trust shall prepare in respect of each Financial Year annual accounts in such form as NHS England may with the approval of the Secretary of State direct.

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

40.6 The Trust shall lay a copy of the annual accounts, and any report of the auditor on them, before Parliament and once it has done so, send copies of those documents to NHS England.

41 Annual report, forward plans and non-NHS work

41.1 The Trust shall prepare an annual report and send it to NHS England.

41.2 Each Annual Report must, in particular, review the extent to which the Trust has exercised its functions:

41.2.1 in accordance with the plans published under:

(a) section 14Z52 of the 2006 Act; and

(b) section 14Z56 of the 2006 Act

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- 41.2.2 consistently with NHS England's views set out in the latest statement published under section 13SA(1)
- 41.3 Each Annual Report shall provide:
- 41.3.1 information on any steps taken by the Trust to secure that (taken as a whole) the actual membership of its public constituencies and the classes of the staff constituency is representative of those eligible for such membership;
- 41.3.2 information on any occasions in the period to which the report relates on which the Council of Governors has exercised its power under paragraph 19.4;
- 41.3.3 information on the Trust's policy on pay and on the work of the committee established under paragraph 33.2 and such other procedures as the Trust has on pay;
- 41.3.4 information on the remuneration of the Directors and on the expenses of the governors and the Directors;
- 41.3.5 any other information NHS England requires.
- 41.4 The Trust is to comply with any decision NHS England makes as to:
- 41.4.1 the form of the report;
- 41.4.2 when the reports are to be sent to it;
- 41.4.3 the periods to which the report relates.
- 41.5 The Trust shall give information as to its forward planning in respect of each Financial Year to NHS England.
- 41.6 The document containing the information with respect to forward planning (referred to above) shall be prepared by the Directors.
- 41.7 In preparing the document, the Directors shall have regard to the views of the Council of Governors.
- 41.8 Each forward plan must include information about:
- 41.8.1 the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on; and
- 41.8.2 the income it expects to receive from doing so.
- 41.9 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in paragraph 41.8.1 the Council of Governors must:
- 41.9.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions; and
- 41.9.2 notify the Directors of the Trust of its determination.

- 41.10 Where the Trust 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 it may implement the proposal only if more than half of the members of the Council of Governors voting approve its implementation.

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

- 42.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors and at the Trust's Annual Members Meeting:

- 42.1.1 the Trust's annual accounts;
- 42.1.2 any report of the Auditor on them; and
- 42.1.3 the Trust's Annual Report.

- 42.2 The documents shall also be presented to the members of the Trust at the Annual Members' Meeting by at least one (1) member of the Board of Directors in attendance.

- 42.3 The Trust may combine a Meeting of the Council of Governors convened for the purposes of paragraph 42.1 with the Annual Members' Meeting.

43 Instruments

- 43.1 The Trust shall have a seal.
- 43.2 The seal shall not be affixed except under the authority of the Board of Directors. Attestation by any two Directors shall be deemed to constitute affixing the seal under the authority of the Board of Directors or a committee under a delegation.

44 Amendment of the Constitution

- 44.1 The Trust may make amendments of its Constitution only if:
- 44.1.1 more than half of the members of the Board of Directors of the Trust voting approve the amendments; and
 - 44.1.2 more than half of the members of the Council of Governors of the Trust voting approve the amendments.
- 44.2 Amendments made under paragraph 44.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the Constitution would, as a result of the amendment, not accord with Schedule 7 of the 2006 Act.
- 44.3 Where an amendment is made to the Constitution in relation the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust):
- 44.3.1 at least one (1) member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment; and

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

44.4 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.

44.5 Amendments to this Constitution are to be notified to NHS England. For the avoidance of doubt, NHS England'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.

45 Mergers etc. and significant transactions

45.1 The Trust may only apply for a Statutory Transaction with the approval of more than half of the members of the Council of Governors.

45.2 The Trust may enter into a Significant Transaction only if more than half of the members of the Council of Governors of the Trust voting approve entering into the transaction.

45.3 For the purposes of paragraph 45.2 a Statutory Transaction is not a Significant Transaction.

46 Procedures and practices

46.1 The Board of Directors shall adopt such procedures and practices (by way of a Governance Manual or otherwise) as it shall deem to be appropriate for the good governance of the Trust from time to time. For the avoidance of doubt, any such practices and procedures adopted by the Board of Directors for the purposes of good governance shall not form part of this Constitution.

47 Indemnity

47.1 Members of the Board of Directors, the Council of Governors and the Trust Secretary who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust.

47.2 The Trust may purchase and maintain for members of the Board of Directors, Council of Governors and the Trust Secretary, insurance in respect of Directors' and officers' liability, including, without limitation, liability arising by reason of the Trust acting as a corporate trustee of an NHS charity.

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Annex 1 The Public Constituencies

There shall be four Public Constituencies. Members of the public shall be eligible for membership of the Public Constituencies as shown in the table below:

Public Constituency	Electoral area	Minimum number of members
<p>West Norfolk comprising the district of King's Lynn and West Norfolk</p>	<p>The areas of this Public Constituency is defined as the following electoral wards:</p> <p>Airfield, Bircham with Rudhams, Brancaster, Burnham Market & Docking, Clenchwarton, Denver, Dersingham, Downham Old Town, East Downham, Emneth & Outwell, Fairstead, Feltwell, Gayton & Grimston, Gaywood Chase, Gaywood Clock, Gaywood North Bank, Heacham, Hunstanton, Massingham with Castle Acre, Methwold, North Downham, North Lynn, Snettisham, South & West Lynn, South Downham, Springwood, St. Margaret's with St. Nicholas, Terrington, The Woottons, Tilney, Mershe Lande & Wiggenhall, Upwell & Delph, Walsoken, West Walton & Walpole, Watlington, West Winch, Wissey</p>	<p>50</p>
<p>Cambridgeshire / Fenland</p>	<p>The areas of this Public Constituency is defined as the following electoral wards:</p> <p>Elm & Christchurch, Leverington & Wisbech Rural, March East, March North, March South, March West & Benwick, Parson Drove & Wisbech St Mary, Wisbech North, Wisbech Riverside, Wisbech South, Wisbech Walsoken & Waterlees</p>	<p>20</p>
<p>South-East Lincolnshire</p>	<p>The areas of this Public Constituency is defined as</p>	<p>10</p>

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	<p>the following electoral wards:</p> <p>Crowland and Deeping St Nicholas, Fleet, Gedney, Holbeach Hurn, Holbeach Town, Long Sutton, Moulton, Weston and Cowbit, Pinchbeck and Surfleet, Spalding Castle, Spalding Monks House, Spalding St John's, Spalding St Mary's, Spalding St Paul's, Spalding Wygate, Sutton Bridge, The Saints, Whaplode and Holbeach St John's</p>	
<p>North Norfolk, Breckland and Rest of England</p>	<p>The areas of this Public Constituency is defined as the following electoral wards:</p> <p>North Norfolk: Lancaster North, Lancaster South, Priory, Stibbard, The Raynhams, Walsingham, Wells with Holkham</p> <p>Breckland: Ashill, Bedingfeld, Dereham Neatherd, Dereham Toftwood, Dereham Withburga, Hermitage, Launditch, Lincoln, Mattishall, Nar Valley, Necton, Saham Toney, Shipdham-withScarning, Swaffham, Upper Wensum, Watton</p> <p>Rest of England comprising all other electoral wards in England, save those electoral wards that fall within any of the Public Constituencies set out in this Annex 1.</p>	<p>20</p>

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Annex 2 The Staff Constituency

Class	Minimum number of members:
Clinical	50
Non-clinical	50
Total	100

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Annex 3 Further provisions for the Council of Governors

1 Composition

1.1 The Council of Governors shall comprise 28 governors as set out in the tables below:

2 Public Governors

Public Constituency	Number of governors
West Norfolk	9
North Norfolk, Breckland, Rest of England	2
Cambridgeshire	3
South-East Lincolnshire	2
Total	16

3 Staff Governors

Staff Class	Number of governors
Clinical staff	3
Non-clinical staff	3
Total	6

4 Appointed Governors

Appointing Organisation	Number of governors
Norfolk County Council	1
Borough Council of King's Lynn and West Norfolk	1
Breckland District Council	1
University of East Anglia	1
College of West Anglia	1
Freebridge Community Housing	1

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Appointing Organisation	Number of governors
Total	6

5 Disqualification and removal

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

- 5.1.1 a person who is a Director of the Trust;
- 5.1.2 a person who is a director of another Foundation Trust;
- 5.1.3 a person who has resigned following suspension or been removed as a Governor of another Foundation Trust;
- 5.1.4 a person who has had his name removed from a list maintained under the regulations pursuant of Sections 91, 106, 123 or 146 of the 2006 Act, or the equivalent lists maintained by local health boards in Wales under the National Health Services (Wales) Act 2006, and they have not subsequently had their name included in such a list;
- 5.1.5 a person who is subject to a Sex Offenders Order (under the Sex Offenders Act 1997 as amended by the Sexual Offences Act 2003) and/or whose name is included in the Sex Offender Register (established under the Sexual Offences Act 2003);
- 5.1.6 a person who is incapable by reason of mental disorder, injury or illness of managing and administering their property and affairs;
- 5.1.7 a person who has failed to give written consent to the Secretary to enable them to request a third party to provide data that will verify the person's status in relation to paragraphs 2.1.1 to 2.1.6 above;
- 5.1.8 a person who has refused to take any training required by the Council of Governors for all governors.

5.2 If a governor fails to attend more than 2 consecutive meetings of the Council of Governors in any financial year, their tenure of office is to be terminated immediately unless the other governors are satisfied that:

- 5.2.1 the absence was due to a reasonable cause; and
- 5.2.2 they will be able to start attending meetings of the Council of Governors again within such a period as they consider reasonable.

5.3 If a governor is considered to have acted in a manner inconsistent with:

- 5.3.1 the vision and values of the Trust and the core principles of the NHS;
- 5.3.2 the terms of the Trust's licence; or

- 5.3.3 the standing orders of the Council of Governors; or
- 5.3.4 the Governors' Code of Conduct; or
- 5.3.5 except as a result of a genuine mistake or where reasonable cause can be shown or where they can demonstrate that they have gained no personal benefit, they have failed to declare an interest as required by the Constitution or the standing orders of the Council of Governors, or they have spoken or voted at a meeting on a matter in which they has an interest contrary to this Constitution or the standing orders of the Council of Governors, and this paragraph "interest" includes a pecuniary and a non- pecuniary interest and in either case whether direct or indirect, and

they are judged to have so acted by a majority of not less than 75% of the Council of Governors present and voting then the Governor shall vacate their office immediately.

- 5.4 The standing orders of the Council of Governors shall provide for the process to be adopted in cases relating to the termination of a governor's tenure.

6 Vacancies

- 6.1 Where a vacancy arises on the Council of Governors for any reason other than expiry of the term of office, the following provisions will apply:
- 6.2 Where the vacancy arises amongst the Appointed Governors, the Secretary shall request that the appointing organisation appoints a replacement to hold office for the remainder of the term of office.
- 6.3 When a vacancy arises for one or more Elected Governors, the Council of Governors shall have the option to take from the list of members who stood for election at the most recent election of Governors from the class or constituency in question the next highest polling candidate. This procedure, which shall be an uncontested election for the purposes of the Model Election Rules as they apply to the Trust and shall be available to the Governors on two occasions within twelve months of the previous election. Governors appointed in this way shall hold office for a minimum of six months from their appointment but, subject thereto, shall hold office until the earlier of the conclusion of the next election of Governors and (except where the vacancy arose through expiry of a term of office) the date on which would have expired the term of office of the Governor whose cessation of office gave rise to the vacancy.

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Annex 4 Further provisions for members

1 Annual Members' Meeting

- 1.1 The Chair of the Trust or, in their absence, the Deputy Chair or another Non-Executive Director, shall preside at the Annual Members' Meeting. For the avoidance of doubt, no Annual Members' Meeting may proceed in the absence of the Chair or a Non-Executive Director.
- 1.2 Before a members' meeting can do business there must be a quorum present. Except where this Constitution states otherwise a quorum is twenty (20) members with at least one (1) member present from each of the Trust's constituencies.
- 1.3 If a quorum is not present, no matter may be discussed or voted upon at that meeting and the meeting shall be adjourned. Such a position shall be recorded in the minutes of the meeting.
- 1.4 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 Board of Directors determine. If a quorum is not present within half an hour of the time fixed for the start of the adjourned meeting, the number of members present shall be a quorum.

2 Restriction on membership

- 2.1 An individual shall not become or continue as a member if:
 - 2.1.1 they are or wish to become a member of a Public Constituency and they do not or no longer reside within the relevant catchment area as set out in Annex 1;
 - 2.1.2 in the last 5 years prior to the individual's application for membership, the individual has been involved, as a perpetrator, in a serious incident of assault or violence, or in one or more incidents of harassment against any persons working for the Trust or any other NHS Body or any service users or carers or visitors to the Trust or any other NHS Body;
 - 2.1.3 in the last 5 years the individual has been excluded from any of the Trust's premises from which services are provided;
 - 2.1.4 the individual is a vexatious complainant as determined by the Secretary;
 - 2.1.5 the Council of Governors resolves that there are reasonable grounds to believe that the individual is likely to:
 - (a) prejudice the ability of the Trust to fulfil its Principal Purpose or other of its purposes under the Constitution or otherwise to discharge its duties and functions; or

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- (b) harm the Trust's work with other persons or bodies with whom it is engaged or may be engaged in the provision of goods and services; or
- (c) adversely affect public confidence in the goods or services provided by the Trust; or
- (d) otherwise bring the Trust into disrepute; or

2.1.6 the individual is a former employee of the Trust, and their contract has been terminated due to poor performance or misconduct.

2.2 No person who has been expelled from membership of the Trust is to be re-admitted as a member except by a resolution carried by the votes of two-thirds of the Council of Governors present and voting at a general meeting of the Council of Governors.

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Annex 5 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 consent and particulars
11. Declaration of interests
12. Declaration of eligibility
13. Signature of candidate
14. Decisions as to validity of nomination papers
15. Publication of statement of nominated candidates
16. Inspection of statement of nominated candidates and nomination papers
17. Withdrawal of candidates
18. Method of election

Part 5 – Contested elections

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

Action to be taken before the poll

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

The poll

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

Procedure for receipt of envelopes

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

Part 6 - Counting the votes

- stv36. Interpretation of Part 6
37. Arrangements for counting of the votes
38. The count
- stv39. Rejected ballot papers
- fpp39. Rejected ballot papers
- stv40. First stage
- stv41. The quota
- stv42. Transfer of votes
- stv43. Supplementary provisions on transfer
- stv44. Exclusion of candidates
- stv45. Filling of last vacancies
- stv46. Order of election of candidates
- fpp46. Equality of votes

Part 7 – Final proceedings in contested and uncontested elections

- fpp47. Declaration of result for contested elections
- stv47. Declaration of result for contested elections
48. Declaration of result for uncontested elections

Part 8 – Disposal of documents

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

Part 9 – Death of a candidate during a contested election

- fpp54. Countermand or abandonment of poll on death of candidate
- stv54. Countermand or abandonment of poll on death of candidate

Part 10 – Election expenses and publicity

Expenses

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

Publicity

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

Part 11 – Questioning elections and irregularities

61. Application to question an election

Part 12 – Miscellaneous

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

Part 1 - Interpretation

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

Part 2 – Timetable for election

2. Timetable - The proceedings at an election shall be conducted in accordance with the following timetable. Proceeding	Time
Publication of notice of election	Not later than the fortieth day before the day of the close of the poll.
Final day for delivery of nomination papers to returning officer	Not later than the twenty eighth day before the day of the close of the poll.
Publication of statement of nominated candidates	Not later than the twenty seventh day before the day of the close of the poll.
Final day for delivery of notices of withdrawals by candidates from election	Not later than twenty fifth day before the day of the close of the poll.
Notice of the poll	Not later than the fifteenth day before the day of the close of the poll.
Close of the poll	By 5.00pm on the final day of the election.

3. Computation of time - (1) In computing any period of time for the purposes of the timetable -
 (a) a Saturday or Sunday;
 (b) Christmas day, Good Friday, or a bank holiday, or
 (c) a day appointed for public thanksgiving or mourning,

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

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

Part 3 – Returning officer

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

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

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

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

(a) any expenses incurred by that officer in the exercise of his or her functions under these rules,

(b) such remuneration and other expenses as the corporation may determine.

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

Part 4 - Stages Common to Contested and Uncontested Elections

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

(a) the constituency, or class within a constituency, for which the election is being held,

(b) the number of members of the board of governors to be elected from that constituency, or class within that constituency,

(c) the details of any nomination committee that has been established by the corporation,

(d) the address and times at which nomination papers may be obtained;

(e) the address for return of nomination papers and the date and time by which they must be received by the returning officer,

(f) the date and time by which any notice of withdrawal must be received by the returning officer

(g) the contact details of the returning officer, and

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

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

(2) The returning officer-

(a) is to supply any member of the corporation with a nomination paper, and

(b) is to prepare a nomination paper for signature at the request of any member of the corporation,

but it is not necessary for a nomination to be on a form supplied by the returning officer.

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

(a) full name,

(b) contact address in full, and

(c) constituency, or class within a constituency, of which the candidate is a member.

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

(a) any financial interest that the candidate has in the corporation, and

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

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

- (a) that he or she is not prevented from being a member of the board of governors by paragraph 8 of Schedule 1 of the 2003 Act or by any provision of the constitution; and,
- (b) for a member of the public or patient constituency, of the particulars of his or her qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

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

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

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

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

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

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

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

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

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

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

(2) The statement must show –

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

(b) the declared interests of each candidate standing, as given in their nomination paper.

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

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

16. Inspection of statement of nominated candidates and nomination papers – (1)

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

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

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

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

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

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

(a) the candidates who remain validly nominated are to be declared elected in accordance with Part 7 of these rules, and

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

Part 5 – Contested elections

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

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

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

(2) Every ballot paper must specify –

(a) the name of the corporation,

(b) the constituency, or class within a constituency, for which the election is being held,

(c) the number of members of the board of governors to be elected from that constituency, or class within that constituency,

(d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,

(e) instructions on how to vote,

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(f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and

(g) the contact details of the returning officer.

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

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

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

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

(a) that the voter is the person to whom the ballot paper was addressed,

(b) that the voter has not marked or returned any other voting paper in the election, and

(c) for a member of the public or patient constituency, of the particulars of that member's qualification to vote as a member of the constituency or class within a constituency for which the election is being held.

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

(a) the name of the voter,

(b) the address of the voter,

(c) the voter's signature, and

(d) the date that the declaration was made by the voter.

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

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

Action to be taken before the poll

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

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

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

(a) the name of the corporation,

(b) the constituency, or class within a constituency, for which the election is being held,

(c) the number of members of the board of governors to be elected from that constituency, or class with that constituency,

(d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,

(e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,

(f) the address for return of the ballot papers, and the date and time of the close of the poll,

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(g) the address and final dates for applications for replacement ballot papers, and

(h) the contact details of the returning officer.

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

(a) a ballot paper and ballot paper envelope,

(b) a declaration of identity (if required),

(c) information about each candidate standing for election, pursuant to rule 59 of these rules, and

(d) a covering envelope.

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

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

(2) The covering envelope is to have –

(a) the address for return of the ballot paper printed on it, and

(b) pre-paid postage for return to that address.

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

(a) the completed declaration of identity if required, and

(b) the ballot paper envelope, with the ballot paper sealed inside it.

The poll

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

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

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

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

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

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

(a) is satisfied as to the voter’s identity, and

(b) has ensured that the declaration of identity, if required, has not been returned.

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

(a) the name of the voter, and

(b) the details of the unique identifier of the spoilt ballot paper (if that officer was able to obtain it), and

(c) the details of the unique identifier of the replacement ballot paper.

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

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

(a) is satisfied as to the voter's identity,

(b) has no reason to doubt that the voter did not receive the original ballot paper, and

(c) has ensured that the declaration of identity if required has not been returned.

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

(a) the name of the voter, and

(b) the details of the unique identifier of the replacement ballot paper.

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

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

(a) the name of the voter, and

(b) the details of the unique identifier of the replacement ballot paper issued under this rule.

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

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

(a) that the voter has not voted in the election with any ballot paper other than the ballot paper being returned with the declaration, and

(b) of the particulars of that member's qualification to vote as a member of the public or patient constituency, or class within a constituency, for which the election is being held.

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

(a) the name of the voter,

(b) the address of the voter,

(c) the voter's signature, and

(d) the date that the declaration was made by the voter.

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

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

Procedure for receipt of envelopes

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

(a) covering envelope, or

(b) any other envelope containing a declaration of identity if required, a ballot paper envelope, or a ballot paper, before the close of the poll, that officer is to open it as soon as is practicable; and rules 33 and 34 are to apply.

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

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

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

33. Validity of ballot paper –

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

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

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

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

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

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

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

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

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

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

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Part 6 - Counting the votes

stv36. Interpretation of Part 6 – In Part 6 of these rules –

“continuing candidate” means any candidate not deemed to be elected, and not excluded,
“count” means all the operations involved in counting of the first preferences recorded for candidates, the transfer of the surpluses of elected candidates, and the transfer of the votes of the excluded candidates,

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

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

“non-transferable vote” means a ballot paper –

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

(b) which is excluded by the returning officer under rule stv44(4) below,

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

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

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

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

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

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

“stage of the count” means –

(a) the determination of the first preference vote of each candidate,

(b) the transfer of a surplus of a candidate deemed to be elected, or

(c) the exclusion of one or more candidates at any given time,

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

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

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

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

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

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

(b) count the votes according to the provisions in this Part of the rules.

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

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

Stv39. Rejected ballot papers – (1) Any ballot paper –

(a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,

(b) on which the figure “1” standing alone is not placed so as to indicate a first preference for any candidate,

(c) on which anything is written or marked by which the voter can be identified except the unique identifier, or

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

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

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

fpp39. Rejected ballot papers – (1) Any ballot paper – (a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,

(b) on which votes are given for more candidates than the voter is entitled to vote,

(c) on which anything is written or marked by which the voter can be identified except the unique identifier, or

(d) which is unmarked or rejected because of uncertainty, shall, subject to paragraphs (2) and (3) below, be rejected and not counted.

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

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

(a) elsewhere than in the proper place,

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

(c) by more than one mark,

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

(4) The returning officer is to –

(a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and

(b) in the case of a ballot paper on which any vote is counted under paragraph (2) or (3) above, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

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(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.

stv40. First stage – (1) The returning officer is to sort the ballot papers into parcels according to the candidates for whom the first preference votes are given.

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

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

stv41. The quota – (1) The returning officer is to divide the number of valid ballot papers by a number exceeding by one the number of members to be elected.

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

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

stv42. Transfer of votes – (1) Where the number of first preference votes for any candidate exceeds the quota, the returning officer is to sort all the ballot papers on which first preference votes are given for that candidate into sub-parcels so that they are grouped –

(a) according to next available preference given on those papers for any continuing candidate, or

(b) where no such preference is given, as the sub-parcel of non-transferable votes.

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

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

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

(a) reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus, and

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

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

(a) according to the next available preference given on those papers for any continuing candidate, or

(b) where no such preference is given, as the sub-parcel of non-transferable votes.

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

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

(a) a transfer value calculated as set out in paragraph (4)(b) above, or

(b) at the value at which that vote was received by the candidate from whom it is now being transferred,

whichever is the less.

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

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

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

(a) less than the difference between the total vote then credited to the continuing candidate with the lowest recorded vote and the vote of the candidate with the next lowest recorded vote, or

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

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

stv43. Supplementary provisions on transfer – (1) If, at any stage of the count, two or more candidates have surpluses, the transferable papers of the candidate with the highest surplus shall be transferred first, and if –

(a) The surpluses determined in respect of two or more candidates are equal, the transferable papers of the candidate who had the highest recorded vote at the earliest preceding stage at which they had unequal votes shall be transferred first, and

(b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot, and the transferable papers of the candidate on whom the lot falls shall be transferred first.

(2) The returning officer shall, on each transfer of transferable papers under rule stv42 above –

(a) record the total value of the votes transferred to each candidate,

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

(c) record as non-transferable votes the difference between the surplus and the total transfer value of the transferred votes and add that difference to the previously recorded total of non-transferable votes, and

(d) compare—

(i) the total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes, with

(ii) the recorded total of valid first preference votes.

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

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

stv44. Exclusion of candidates – (1) If—

(a) all transferable papers which under the provisions of rule stv42 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and

(b) subject to rule stv45 below, one or more vacancies remain to be filled, the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where paragraph (12) below applies, the candidates with the then lowest votes).

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

(a) ballot papers on which a next available preference is given, and

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

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

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

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

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

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

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

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

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

(a) record –

(i) the total value of votes, or

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

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

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(c) record the value of non-transferable votes and add that value to the previous non-transferable votes total, and

(d) compare—

(i) the total number of votes then recorded for each candidate together with the total number of non-transferable votes, with

(ii) the recorded total of valid first preference votes.

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

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

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

(a) regard shall be had to the total number of votes credited to those candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded, and

(b) where the number of votes credited to those candidates was equal at all stages, the returning officer shall decide between the candidates by lot and the candidate on whom the lot falls shall be excluded.

stv45. Filling of last vacancies – (1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

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

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

stv46. Order of election of candidates – (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule stv42(10) above.

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

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

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

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fpp46. Equality of votes – Where, after the counting of votes is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer is to decide between those candidates by a lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Part 7 – Final proceedings in contested and uncontested elections

fpp47. Declaration of result for contested elections – (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to –

(a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the board 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 4(4) of the 2003 Act, to the chairman of the NHS Trust, or

(ii) in any other case, to the chairman of the corporation; and

(c) give public notice of the name of each candidate whom he or she has declared elected.

(2) The returning officer is to make –

(a) the total number of votes given for each candidate (whether elected or not), and

(b) the number of rejected ballot papers under each of the headings in rule fpp39(5),

available on request.

stv47. Declaration of result for contested elections – (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to—

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

(b) give notice of the name of each candidate who he or she has declared elected –

(i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 4(4) of the 2003 Act, to the 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.

(2) The returning officer is to make –

(a) the number of first preference votes for each candidate whether elected or not,

(b) any transfer of votes,

(c) the total number of votes for each candidate at each stage of the count at which such transfer took place,

(d) the order in which the successful candidates were elected, and

(e) the number of rejected ballot papers under each of the headings in rule stv39(1), available on request.

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

(a) declare the candidate or candidates remaining validly nominated to be elected,

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

Part 8 – Disposal of documents

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

- (a) the counted ballot papers,
 - (b) the ballot papers endorsed with “rejected in part”,
 - (c) the rejected ballot papers, and
 - (d) the statement of rejected ballot papers.
- (2) The returning officer must not open the sealed packets of –
- (a) the disqualified documents, with the list of disqualified documents inside it,
 - (b) the declarations of identity,
 - (c) the list of spoilt ballot papers,
 - (d) the list of lost ballot papers,
 - (e) the list of eligible voters, and
 - (f) the list of tendered ballot papers.
- (3) The returning officer must endorse on each packet a description of –
- (a) its contents,
 - (b) the date of the publication of notice of the election,
 - (c) the name of the corporation to which the election relates, and
 - (d) the constituency, or class within a constituency, to which the election relates.

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

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

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

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

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

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

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

53. Application for inspection of certain documents relating to an election – (1) The corporation may not allow the inspection of, or the opening of any sealed packet containing

–

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

by any person without the consent of the Regulator.

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

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

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

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

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

- (a) in giving its consent, the regulator, and

(b) and making the documents available for inspection, the corporation, must ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established –

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

Part 9 – Death of a candidate during a contested election

fpp54. Countermand or abandonment of poll on death of candidate – (1) If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to

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

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

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

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

(5) The returning officer is to –

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

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

stv54. Countermand or abandonment of poll on death of candidate – (1) If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to –

- (a) publish a notice stating that the candidate has died, and
- (b) proceed with the counting of the votes as if that candidate had been excluded from the count so that –
 - (i) ballot papers which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted, and
 - (ii) ballot papers which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences marked for the candidate who has died.
- (2) The ballot papers which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot papers pursuant to rule 49(1)(a).

Part 10 – Election expenses and publicity
Election expenses

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

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

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

57. Election expenses incurred by other persons –

- (1) No person may -
 - (a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise, or
 - (b) give a candidate or his or her family any money or property (whether as a gift, donation, loan, or otherwise) to meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.
- (2) Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 58 and 59.

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Publicity

58. Publicity about election by the corporation –

- (1) The corporation may –
- (a) compile and distribute such information about the candidates, and
 - (b) organise and hold such meetings to enable the candidates to speak and respond to questions,
- as it considers necessary.
- (2) Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 59, must be –
- (a) objective, balanced and fair,
 - (b) equivalent in size and content for all candidates,
 - (c) compiled and distributed in consultation with all of the candidates standing for election, and
 - (d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.
- (3) Where the corporation proposes to hold a meeting to enable the candidates to speak, the corporation must ensure that all of the candidates are invited to attend, and in organising and holding such a meeting, the corporation must not seek to promote or procure the election of a specific candidate or candidates at the expense of the electoral prospects of one or more other candidates.

59. Information about candidates for inclusion with voting documents - (1) The corporation must compile information about the candidates standing for election, to be distributed by the returning officer pursuant to rule 24 of these rules.

- (2) The information must consist of –
- (a) a statement submitted by the candidate of no more than [250] words, [and]
 - [(b) a photograph of the candidate.]

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

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

Part 11 – Questioning elections and the consequence of irregularities

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

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

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

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

(4) The application must –

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

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

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

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

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

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

Part 12 – Miscellaneous

62. Secrecy – (1) The following persons –

(a) the returning officer,

(b) the returning officer's staff,

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

(i) the name of any member of the corporation who has or has not been given a ballot paper or who has or has not voted,

(ii) the unique identifier on any ballot paper,

(iii) the candidate(s) for whom any member has voted.

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

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

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

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

(a) a member of the corporation,

(b) an employee of the corporation,

(c) a director of the corporation, or

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

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

(a) the delivery of the documents in rule 24, or

(b) the return of the ballot papers and declarations of identity, the returning officer may extend the time between the publication of the notice of the poll and the close of the poll, with the agreement of the Regulator.

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James Paget University Hospitals NHS Foundation Trust

Constitution

A PUBLIC BENEFIT CORPORATION

Version dated: March 2026

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James Paget University Hospitals NHS Foundation Trust
Constitution

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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.
- 1.2 References in this Constitution to legislation include all amendments, replacements and re-enactments made and include all subordinate legislation made thereunder.
- 1.3 Headings are for ease of reference only and are not to affect interpretation.
- 1.4 References to paragraphs are to paragraphs in this Constitution save that where there is a reference to a paragraph in an annex or appendix to this Constitution it shall be a reference to a paragraph in that annex or appendix unless the contrary is expressly stated, or the context otherwise so requires.
- 1.5 Words importing the masculine gender only shall include the feminine gender; words importing the singular shall import the plural and vice-versa.
- 1.6 In this Constitution:

The **2006 Act** is the National Health Service Act 2006.

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

The **2022 Act** is the Health and Care Act 2022.

The **Accounting Officer** is the Chief Executive who discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act.

Annual Members' Meeting is the annual meeting of the members of the Trust in accordance with paragraph 12 of this Constitution.

Auditor means an individual or organisation appointed by the Trust's Council of Governors in accordance with paragraph 23 of Schedule 7 to the 2006 Act to evaluate and verify the accuracy of the financial records and accounting practices of the Trust.

Board of Directors is the board of directors of the Norfolk and Waveney University Hospitals Group, as constituted in accordance with this Constitution and the Constitutions of other Foundation Trusts in the Group.

The **Chair** means the Norfolk and Waveney University Hospitals Group Chair.

The **Chief Executive** means the Norfolk and Waveney University Hospitals Group Chief Executive Officer.

The **Code of Conduct for Directors** means the Trust's code of conduct for the Directors as adopted by the Trust from time to time.

Constitution means this constitution and all annexes to it.

The **Code of Conduct for Governors** means the Trust's code of conduct for the Governors as adopted by the Trust and the Council of Governors from time to time.

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Council of Governors is the Council of Governors of the Trust as constituted in accordance with this Constitution.

Days mean calendar days for the purposes of this Constitution, unless otherwise specified.

Deputy Chair means one Non-Executive Director appointed by the Board of Directors to act as the Chair of the Trust in certain circumstances.

Director means a voting member of the Board of Directors.

Financial Year means each successive period of twelve (12) months beginning with 1 April and ending on 31 March.

Health Overview and Scrutiny Committee means a local authority committee in accordance with regulations made further to paragraph 244 of the 2006 Act and includes joint Health Overview and Scrutiny Committees established by more than one local authority further to paragraph 245 of the 2006 Act.

Healthwatch means (1) the committee of the Care Quality Commission established under paragraph 6 of Schedule 1 of the Health and Social Care Act 2008 known as Healthwatch England; and (2) any local Healthwatch organisation with the functions set out in paragraph 221 of Local Government and Public Involvement in Health Act 2007 relating to service user and public involvement in healthcare.

Integrated Care Board (ICB) means an integrated care board established under Chapter A3 of Part 2 of the 2006 Act.

Meeting of the Board of Directors means a duly convened meeting of the Board of Directors.

Model Election Rules means those election rules as published by NHS Providers from time to time.

NHS England is the body corporate known as NHS England, established under section 1H of the 2006 Act.

Partnership Organisation means a partnership organisation for the purposes of paragraph 9(7) of Schedule 7 of the 2006 Act.

Public Constituency means those who live in an area specified in Annex 1 of this Constitution as an area for any public constituency of the Trust as constituted in accordance with paragraph 9 of this Constitution.

Significant Transaction is not defined in this Constitution.

Staff Constituency means those individuals who are members of Trust staff and as constituted in accordance with paragraph 10 of this Constitution.

Statutory Transaction means a merger under section 56 of the 2006 Act, an acquisition under section 56A of the 2006 Act, a separation under section 56B of the 2006 Act, or dissolution under section 57A of the 2006 Act.

The **Terms of Reference** means the terms of reference adopted by any committees or other groups of the Trust and which are set out in the Trust's Governance Manual, and which may be updated from time to time.

The **Trust** means the James Paget University Hospitals NHS Foundation Trust.

Trust Secretary is the person appointed by the Board to act as the secretary to the Trust, responsible for providing independent governance advice to the Chair, Chief Executive, Board of Directors, and Council of Governors from time to time.

Voluntary organisation means a body, other than a public or local authority, the activities of which are not carried on for profit.

2 Name

2.1 The name of the foundation trust is the James Paget University Hospitals NHS Foundation Trust (the '**Trust**').

3 Principal Purpose

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

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 and the promotion and protection of public health.

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

4 Powers

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

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

4.3 Subject to paragraphs 4.4 (or as otherwise provided by section 45 of the Mental Health Act 2007) and 5, any of these powers may be delegated to a committee of Directors or to an Executive Director.

4.4 The Board of Directors may authorise any three or more people, each of whom is neither an Executive Director of the Trust nor an employee of the Trust to exercise powers conferred on the Trust by section 45 of the Mental Health Act 2007.

4.5 The Trust shall exercise its functions effectively, efficiently and economically.

4.6 Subject to paragraph 4.7 below and having regard to any guidance published by NHS England, in making a decision about the exercise of its functions, the Trust shall have regard to all likely effects of the decision in relation to:

- 4.6.1 the health and wellbeing of the people of England;
 - 4.6.2 the quality of services provided to individuals by relevant bodies, or in pursuance of arrangements made by relevant bodies, for or in connection with the prevention, diagnosis or treatment of illness, as part of the health service in England; and
 - 4.6.3 efficiency and sustainability in relation to the use of resources by relevant bodies for the purposes of the health service in England.
- 4.7 The requirement to have regard to the wider effect of its decisions set out at paragraph 4.6 shall not apply to decisions about services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness.
- 4.8 In paragraph 4.6 ‘relevant bodies’ has the meaning set out in paragraph 63A(4) of the 2006 Act.
- 4.9 In exercising its functions, the Trust shall have regard to the need to contribute towards compliance with the UK net zero emissions target set out at section 1 of the Climate Change Act 2008 and the environmental targets set out at section 5 of the Environment Act 2021, and to adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008. In doing so, the Trust shall also have regard to guidance published by NHS England.
- 4.10 The Trust may do anything which appears to it to be necessary or expedient for the purposes of or in connection with its functions.

5 Joint working and delegation arrangements

5.1 Subject to paragraph 5.2 the Trust may arrange in accordance with section 65Z5 of the 2006 Act for the joint exercise of functions with any one or more of the following bodies:

- 5.1.1 a relevant body;
- 5.1.2 a local authority;
- 5.1.3 a combined county authority.

5.2 Where the Trust has entered into arrangements for the joint exercise of functions with one or more bodies in accordance with paragraph 5.1, it may make arrangements for:

- 5.2.1 the function to be exercised by a joint committee of theirs;
- 5.2.2 for one or more of them, or a joint committee of them, to establish and maintain a pooled fund.

5.3 The Trust must have regard to any guidance published by NHS England under section 65Z7.

5.4 In this paragraph 5 the following terms have the following meanings:

- 5.4.1 ‘Relevant body’ has the meaning set out in section 65Z5(2) of the 2006 Act

- 5.4.2 'Local authority' means a local authority within the meaning of section 2B of the 2006 Act
- 5.4.3 'Combined authority' has the meaning set out in section 275 of the 2006 Act
- 5.4.4 'Pooled fund' has the meaning set out in section 65Z6(3) of the 2006 Act.

6 Duties relating to Integrated care system financial controls

- 6.1 The Trust must seek to achieve financial objectives that apply to it under section 223L of the 2006 Act.
- 6.2 The Trust must exercise its functions with a view to ensuring that it complies with its duties under section 223M and section 223N of the 2006 Act to limit local capital resource use and local revenue resource use.

7 Membership and Constituencies

- 7.1 The Trust shall have members, each of whom shall be a member of one of the following constituencies:
 - 7.1.1 a Public Constituency;
 - 7.1.2 the Staff Constituency.

8 Application for membership

An individual who is eligible to become a member of the Trust may do so on application to the Trust in accordance with this Constitution, with the exception of individuals who are eligible to become members of the Staff Constituency, who shall automatically become members in accordance with paragraph 10.5.

9 Public Constituencies

- 9.1 An individual who lives in an area specified in Annex 1 as an area for a Public Constituency may become or continue as a member of the Trust.
- 9.2 Those individuals who live in an area specified for a Public Constituency are referred to collectively as a Public Constituency.
- 9.3 The minimum number of members in each Public Constituency is specified in Annex 1.

10 Staff Constituency

- 10.1 An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a member of the Trust provided:
 - 10.1.1 they are employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least twelve (12) months; or
 - 10.1.2 they have been continuously employed by the Trust under a contract of employment for at least twelve (12) months; and

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- 10.1.3 they have not been disqualified or restricted from membership in accordance with paragraph 11 of this Constitution.
- 10.2 Those individuals who are eligible for membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.
- 10.3 The Staff Constituency shall be one description of individuals who are eligible for membership of the Staff Constituency, this description of individuals being specified within Annex 2 and being referred to as a class within the Staff Constituency.
- 10.4 The minimum number of members in each class in the Staff Constituency is specified in Annex 2.
- 10.5 An individual who is:
- 10.5.1 eligible to become a member of the Staff Constituency;
- 10.5.2 invited by the Trust to become a member of the Staff Constituency,
- shall become a member of the Trust as a member of the appropriate class within the Staff Constituency without an application being made, unless they inform the Trust that they do not wish to do so.

11 Restriction on membership

- 11.1 An individual who is a member of a constituency, or of a class within a constituency, may not while membership of that constituency or class continues, to be a member of any other constituency or class.
- 11.2 An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any constituency other than the Staff Constituency.
- 11.3 An individual must be at least sixteen (16) years old to become a member of the Trust.
- 11.4 A member shall otherwise cease to be a member of the Trust in the following circumstances:
- 11.4.1 they resign by notice to the Trust;
- 11.4.2 if the Trust reasonably believes that the member no longer lives at their registered address and the Trust does not know where that member lives.
- 11.5 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Trust are set out in Annex 4.

12 Annual Members' Meeting

- 12.1 The Trust shall hold an Annual Members' Meeting within nine (9) months of the end of each Financial Year. The Annual Members' Meeting shall be open to members of the public.
- 12.2 Further provisions about the Annual Members' Meeting are set out in Annex 4.

13 Council of Governors – Composition

- 13.1 The Trust is to have a Council of Governors, which shall comprise both Elected and Appointed Governors.
- 13.2 The composition of the Council of Governors is specified in Annex 3.
- 13.3 The members of the Council of Governors, other than the Appointed Governors, shall be chosen by election by their constituency. The number of Governors to be elected by each constituency is specified in Annex 3.
- 13.4 No person shall be eligible to be elected or appointed (as the case may be) a Governor in accordance with the terms of this Constitution unless at the date of their nomination for election or upon the date of their appointment they have attained the age of sixteen (16) years. Persons who are eligible under this paragraph 13.4 shall be eligible for appointment or election under the provisions of this paragraph 13.

Public Governors

- 13.5 Members of the Public Constituency may vote for any eligible member to be a Public Governor, subject to paragraphs 13.6 and 13.7 below.
- 13.6 A person shall not stand for election to the Council of Governors as a Public Governor unless they have made a declaration in a form specified by the Trust Secretary.
- 13.7 A Public Governor shall not vote at a meeting of the Council of Governors unless within the previous twelve (12) months they have made, in a form specified by the Trust Secretary, a declaration of eligibility to vote.
- 13.8 The declarations required under 13.6 and 13.7 above and the equivalent provisions of the declaration required under the Model Election Rules are required by section 60 of the 2006 Act. It is a criminal offence knowingly or recklessly to make a declaration under section 60 of the 2006 Act which is false in a material particular.

Staff Governors

- 13.9 Members of the Staff Constituency may vote for any eligible member to be a Staff Governor.

Appointed Governors

- 13.10 The following local authorities shall be entitled to appoint one (1) Local Authority Governor each:
- 13.10.1 Great Yarmouth Borough Council
 - 13.10.2 East Suffolk Council
 - 13.10.3 Norfolk County Council
 - 13.10.4 Suffolk County Council
- 13.11 There shall be one (1) Appointed Governor appointed by University of East Anglia and University of Suffolk.

- 13.12 No defect or deficiency in the appointment or composition of the members of the Council of Governors shall affect the validity of any decision or action taken by them.

14 Council of Governors – election of Governors

- 14.1 Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules on the basis of single transferable vote (STV) polling and the Model Election Rules shall be construed accordingly.
- 14.2 The Model Election Rules as published from time to time by NHS Providers form part of this Constitution. A copy of the Model Election Rules as at the date of this Constitution is included at Annex 5 of this Constitution. References in the Model Election Rules to Monitor shall be construed as references to NHS England.
- 14.3 A subsequent variation of the Model Election Rules by NHS Providers shall not constitute a variation of the terms of this Constitution for the purposes of paragraph 44 of this Constitution (amendment of the Constitution).
- 14.4 An election, if contested, shall be by secret ballot.

15 Council of Governors - tenure

- 15.1 An Elected Governor may hold office for a term of three (3) years.
- 15.2 An Elected Governor shall cease to hold office if they cease to be a member of the constituency by which they were elected, or if they are disqualified for any of the reasons set out in this Constitution. For the avoidance of doubt, this includes a Public Governor moving their principal residence from one Public Constituency to another.
- 15.3 An Elected Governor shall be eligible for re-election at the end of their term for a further three-year term.
- 15.4 An Elected Governor may not hold office for more than nine (9) consecutive years, or three full terms of office.
- 15.5 An Elected Governor completing the maximum term of office of nine (9) years, or nine (9) years within a preceding twelve (12) year period, may not stand for re-election for a period of three (3) years.
- 15.6 An Appointed Governor may hold office for a period of three (3) years commencing from receipt of their formal nomination by their nominating local authority or Partnership Organisation.
- 15.7 An Appointed Governor shall cease to hold office if the nominating Partnership Organisation withdraws its sponsorship and the Trust has been notified that the sponsorship has been terminated.
- 15.8 An Appointed Governor shall be eligible for re-appointment at the end of their term for a further three-year term.
- 15.9 An Appointed Governor may not hold office for longer than nine (9) consecutive years, or three full terms of office.

15.10 An Appointed Governor completing the maximum term of office of nine (9) years, or nine (9) years within a preceding twelve (12) year period, may not stand for re-election to the Council for a period of three (3) years.

15.11 For the purposes of this paragraph 15, concerning the term of office for Governors, a 'year' means a period commencing immediately after the conclusion of their election or appointment.

16 Council of Governors – appointment of a Lead Governor

16.1 The Governors shall nominate one (1) of the Governors to be Lead Governor. The role of the Lead Governor will be to facilitate communication between NHS England and the Council of Governors in circumstances where it would not be appropriate to communicate through the normal channels such as via the Chair or the Trust Secretary.

17 Council of Governors – disqualification and removal

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

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

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

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

17.1.4 a person who within the preceding 5 years has been convicted anywhere in the world of any offence if 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 on them;

17.2 Governors must be at least sixteen (16) years of age at the date they are nominated for election or appointment.

17.3 A Governor may resign from that office at any time during their term by giving notice in writing to the Trust Secretary or the Chair. Such notice is to specify the date of resignation.

17.4 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors are set out in Annex 3.

18 Council of Governors – duties of Governors

18.1 The general duties of the Council of Governors are:

18.1.1 to hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors; and

18.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public.

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

18.3 All Governors shall comply with the Code of Conduct for Governors.

19 Council of Governors – meetings of Governors

19.1 The Council of Governors shall meet at least four (4) times in each Financial Year at such time and places as the Chair may determine from time to time.

19.2 The Chair of the Trust or, in their absence, the Deputy Chair or another Non-Executive Director, shall preside at meetings of the Council of Governors. For the avoidance of doubt, no meetings of the Council of Governors may proceed in the absence of the Chair or a Non-Executive Director.

19.3 Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons, including, but not limited to, reasons of commercial confidentiality; and/or interference with or preventing the proper conduct of the meeting.

19.4 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 (1) or more of the Directors to attend a meeting.

20 Council of Governors – referral to NHS England

20.1 A Governor of an NHS Foundation Trust may refer a question to NHS England through the Lead Governor where they are concerned that the Trust has failed or is failing:

20.1.1 to act in accordance with its Constitution; or

20.1.2 to act in accordance with any provision made by or under chapter 5 of the 2006 Act.

20.2 A referral to NHS England will only be made where more than half of the members of the Council of Governors vote to approve the referral.

21 Council of Governors - conflicts of interest of Governors

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

21.2 Further provision for dealing with Governor conflicts of interest shall be set out in the standing orders for the practice and procedure of the Council of Governors contained in the Trust's Governance Manual.

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22 Council of Governors – travel expenses

22.1 Members of the Council of Governors may claim travelling and other expenses at rates determined by the Trust.

23 Council of Governors – standing orders

23.1 The standing orders for the practice and procedure of the Council of Governors and further provisions relating to the Council of Governors are contained in the Trust's Governance Manual.

24 Board of Directors – composition

24.1 The Trust is part of the Norfolk and Waveney Hospitals Group. The Group has a Group Board which shall comprise both Executive and Non-Executive Directors, including a single Group Chair. The Non-Executive Directors will always form the majority of the Board of Directors.

24.2 Subject to the requirements of paragraph **Error! Reference source not found.** above, the Board of Directors is to comprise:

24.2.1 a Non-Executive Chair;

24.2.2 not less than four (4) but no more than eleven (11) other Non-Executive Directors; and

24.2.3 not less than four (4) but no more than six (6) Executive Directors.

24.3 One (1) of the Executive Directors shall be the Group Chief Executive.

24.4 The Group Chief Executive shall be the Accounting Officer.

24.5 One (1) of the Executive Directors shall be the Finance Director.

24.6 One (1) of the Executive Directors is to be a registered medical practitioner or dentist.

24.7 One (1) of the Executive Directors is to be a registered nurse or midwife.

24.8 The validity of any act of the Board or the Trust is not affected by any vacancy among the Directors or by any defect in the appointment of any Director.

25 Board of Directors – general duty

25.1 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.

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

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

26.1.1 They are a member of a Public Constituency; or

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26.1.2 where any of the Trust's hospitals includes a medical or dental school provided by a university, they exercise functions for the purposes of that university; and

26.1.3 they are not disqualified by virtue of paragraph 29 below.

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

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

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

27.3 The Board of Directors may in consultation with the Council of Governors appoint a Non-Executive Director, to be the Senior Independent Director, for such a period not exceeding the remainder of their term as a Director.

27.4 The Chair and Non-Executive Directors will normally be appointed for a term of three (3) years and, subject to the approval of the Council of Governors, may be re-appointed for subsequent terms up to a maximum term of office of nine (9) years.

27.5 Further provisions with respect to the appointment and removal of the Chair, Senior Independent Director and other Non-Executive Directors are set out in the standing orders for the practice and procedure of the Board of Directors contained within the Trust's Governance Manual.

28 Board of Directors - appointment and removal of the Group Chief Executive and other Executive Directors

28.1 The Chair and Non-Executive Directors shall appoint or remove the Group Chief Executive.

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

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

29 Board of Directors – disqualification

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

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

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

29.1.3 a person who has made a composition or arrangement with, or granted a Trust deed for, their creditors and has not been discharged in respect of it;

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- 29.1.4 a person who within the preceding 5 years has been convicted anywhere in the world of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three (3) months (without the option of a fine) was imposed on them;
- 29.1.5 a person who is a member of Healthwatch;
- 29.1.6 a person who is a spouse, partner, parent or child of a member of the Board of Directors of the Trust;
- 29.1.7 a person who is a member of a local authority's Health Overview and Scrutiny Committee;
- 29.1.8 a person who is the subject of a disqualification order made under the Company Directors Disqualification Act 1986;
- 29.1.9 a person whose tenure of office as a chair or as a member or director of an NHS 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;
- 29.1.10 a person who within the preceding five (5) years has been dismissed, otherwise than by reason of redundancy from any paid employment with an NHS body and not reinstated;
- 29.1.11 a person who is otherwise disqualified by law from acting as a director of an NHS foundation trust;
- 29.1.12 in the case of a Non-Executive Director, a person who has refused without reasonable cause to fulfil any training requirement established by the Board of Directors;
- 29.1.13 a person who has had their name removed from a list maintained under the regulations pursuant of Sections 91, 106, 123 or 146 of the 2006 Act, or the equivalent lists maintained by local health boards in Wales under the National Health Services (Wales) Act 2006, and they have not subsequently had their name included in such a list;
- 29.1.14 a person who is subject to a Sex Offenders Order (under the Sex Offenders Act 1997 as amended by the Sexual Offences Act 2003) and/or whose name is included in the Sex Offender Register (established under the Sexual Offences Act 2003);
- 29.1.15 a person who fails to meet the requirements of the fit and proper person test set out in regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014; or
- 29.1.16 a person who has refused to sign and deliver to the Trust Secretary a statement in the form required by the Board of Directors confirming acceptance of the Code of Conduct for Directors within one (1) calendar month of appointment.

Any person who is disqualified from becoming or continuing as a Director on any of the grounds set out in this paragraph 29 shall immediately resign as a Director of the Trust. If they decline or fail to do so, they shall be removed immediately by the Board of Directors and a new Director shall be appointed in their place in accordance with the provisions of this Constitution.

30 Board of Directors – meetings

- 30.1 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons including, but not limited to, reasons of commercial confidentiality; and/or interference with or preventing proper conduct of the meeting.
- 30.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

31 Board of Directors – Standing orders

- 31.1 The standing orders for the practice and procedure of the Board of Directors are set out in the Trust’s Governance Manual.

32 Board of Directors - conflicts of interest of Directors

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

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

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

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

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

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

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

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

32.4.1 the Trust; or

32.4.2 a person acting on its behalf.

- 32.5 Directors shall disclose to the Board of Directors the nature and extent of any material interests whether direct or indirect (as defined below) held by a Director, their spouse or partner, which shall be recorded in the register of interests of the Directors.

- 32.6 A direct or indirect interest is:

32.6.1 any interest (excluding a holding of shares in a company whose shares are listed on any public exchange where the holding is less than two per cent (2%) of the total shares in issue) or position held by

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- a Director in any firm, company, or business which has or is likely to have a trading or commercial relationship with the Trust;
- 32.6.2 any interest in an organisation providing health and social care services to the national health service;
- 32.6.3 a position of authority in a charity or voluntary organisation in the field of health and social care; or
- 32.6.4 any connection with any organisation, entity or company considering entering into a financial arrangement with the Trust including but not limited to lenders or banks.
- 32.7 Any Director who has an interest, either direct or indirect, in a matter to be considered by the Board of Directors (whether because the matter involves a firm, company, business, or organisation in which the Director or their spouse or partner has a direct or indirect interest or otherwise) shall declare the nature and extent of such interest to the Board of Directors. That Director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- 32.8 If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.
- 32.9 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.
- 32.10 This paragraph does not require a declaration of an interest of which the Director is not aware or where the Director is not aware of the transaction or arrangement in question.
- 32.11 A Director need not declare an interest:
- 32.11.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
- 32.11.2 if, or to the extent that, the Directors are already aware of it;
- 32.11.3 if, or to the extent that, it concerns terms of the Director's appointment that have been or are to be considered:
- (a) by a meeting of the Board of Directors; or
- (b) by a committee of the Directors appointed for the purpose under this Constitution.
- 32.12 However, if paragraph 32.143 applies, a Director who is interested in an actual or proposed matter to be considered by the Board of Directors is to be counted as participating in the decision making process for quorum and voting purposes.
- 32.13 A matter shall have been authorised for the purposes of paragraph 13.2.2 if:
- 32.13.1 the Board of Directors by majority disapplies the provision of the Constitution which would otherwise prevent a Director from being counted as participating in the decision-making process;

32.13.2 the Director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or

32.13.3 the Director's conflict of interest arises from a permitted cause.

32.13.4 For the purposes of paragraph 32.13.3, the following is a permitted cause:

- (a) a guarantee given, or to be given, by or to a Director in respect of an obligation incurred by or on behalf of the Trust or any of its subsidiaries.
- (b) for the purposes of this paragraph, references to proposed decisions and decision-making processes include any Directors' meeting or part of a Directors' meeting.

32.14 Subject to paragraph 32.15, if a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chair whose ruling in relation to any Director other than the Chair is to be final and conclusive.

32.15 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chair, the question is to be decided by a decision of the Directors at that meeting, for which purpose the Chair is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

32.16 Should an interest in a matter for consideration or decision at a board meeting or board committee meeting affect either all the Non-Executive Directors or all the Executive Directors, the Directors present not affected by the interest will form the quorum for that item.

33 Board of Directors – remuneration and terms of office

33.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chair and the other Non-Executive Directors. In doing so, the Council of Governors shall have regard to NHS England's guidance on remuneration for Non-Executive Directors.

33.2 A committee of the Chair and the Non-Executive Directors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Group Chief Executive and other Executive Directors.

34 Registers

34.1 The Trust shall have:

34.1.1 a register of members showing, in respect of each member, the constituency to which they belong;

34.1.2 a register of members of the Council of Governors;

34.1.3 a register of interests of Governors;

34.1.4 a register of Directors; and

34.1.5 a register of interests of the Directors.

35 Admission to and removal from the registers

35.1 The Trust Secretary 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, and membership shall only formally commence once that name has been entered into the register.

35.2 The Trust Secretary shall remove from the register of Governors the name of any member who ceases to be a Governor under the provisions of this Constitution.

35.3 The Trust Secretary shall remove from the register of Directors the name of any Director who ceases to be a Director under the provisions of this Constitution.

36 Registers – inspection and copies

36.1 The Trust shall make the registers specified in paragraph 34 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

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

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

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

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

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

37 Documents available for public inspection

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

37.1.1 a copy of the current Constitution;

37.1.2 a copy of the latest annual accounts and of any report of the Auditor on them; and

37.1.3 a copy of the latest annual report.

37.2 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:

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- 37.2.1 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;
 - 37.2.2 a copy of any report laid under section 65D (appointment of Trust special administrator) of the 2006 Act;
 - 37.2.3 a copy of any information published under section 65D (appointment of Trust special administrator) of the 2006 Act;
 - 37.2.4 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;
 - 37.2.5 a copy of any statement provided under section 65F(administrator's draft report) of the 2006 Act;
 - 37.2.6 a copy of any notice published under section 65F (administrator's draft report); section 65G (consultation plan); section 65H (consultation requirements); section 65J (power to extend time); section 65KA (NHS England's decision), section 65KB (Secretary of State's response to NHS England's decision), section 65KC (action following Secretary of State's rejection of final report); or section 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act;
 - 37.2.7 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;
 - 37.2.8 a copy of any final report published under section 65I (administrator's final report);
 - 37.2.9 a copy of any statement published under section 65J (power to extend time); or section 65KC (action following Secretary of State's rejection of final report) of the 2006 Act; and
 - 37.2.10 a copy of any information published under section 65M (replacement of Trust special administrator) of the 2006 Act.
- 37.3 Any person who requests a copy of or extract from any of the above documents is to be provided with a copy.
- 37.4 If the person requesting a copy or extract is not a member of the Trust, the Trust may impose a reasonable charge for doing so.

38 Auditor

- 38.1 The Trust shall have an Auditor.
- 38.2 The Council of Governors shall appoint or remove the Auditor at a general meeting of the Council of Governors.
- 38.3 A person may only be appointed as the Auditor if they (or in the case of a firm, each of its members) are eligible to become an Auditor in accordance with paragraph 23 of Schedule 7 to the 2006 Act.

38.4 The Auditor is to carry out its duties in accordance with Schedule 10 of the 2006 Act and in accordance with any directions given by NHS England on standards, procedures and techniques to be adopted.

39 Audit Committee

39.1 The Trust shall establish a committee consisting of at least three (3) independent Non-Executive Directors as an Audit Committee to perform such monitoring, reviewing and other functions as are appropriate.

40 Accounts

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

40.2 NHS England may with the approval of the Secretary of State give directions to the Trust as to the content and form of its accounts.

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

40.4 The Trust shall prepare in respect of each Financial Year annual accounts in such form as NHS England may with the approval of the Secretary of State direct.

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

40.6 The Trust shall lay a copy of the annual accounts, and any report of the auditor on them, before Parliament and once it has done so, send copies of those documents to NHS England.

41 Annual report, forward plans and non-NHS work

41.1 The Trust shall prepare an annual report and send it to NHS England.

41.2 Each Annual Report must, in particular, review the extent to which the Trust has exercised its functions:

41.2.1 in accordance with the plans published under:

(a) section 14Z52 of the 2006 Act; and

(b) section 14Z56 of the 2006 Act

41.2.2 consistently with NHS England's views set out in the latest statement published under section 13SA(1)

41.3 Each Annual Report shall provide:

41.3.1 information on any steps taken by the Trust to secure that (taken as a whole) the actual membership of its public constituencies and the classes of the staff constituency is representative of those eligible for such membership;

41.3.2 information on any occasions in the period to which the report relates on which the Council of Governors has exercised its power under paragraph 19.4

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- 41.3.3 information on the Trust's policy on pay and on the work of the committee established under paragraph 33.2 and such other procedures as the Trust has on pay;
- 41.3.4 information on the remuneration of the Directors and on the expenses of the governors and the Directors;
- 41.3.5 any other information NHS England requires.
- 41.4 The Trust is to comply with any decision NHS England makes as to:
 - 41.4.1 the form of the report;
 - 41.4.2 when the reports are to be sent to it;
 - 41.4.3 the periods to which the reports relate.
- 41.5 The Trust shall give information as to its forward planning in respect of each Financial Year to NHS England.
- 41.6 The document containing the information with respect to forward planning (referred to above) shall be prepared by the Directors.
- 41.7 In preparing the document, the Directors shall have regard to the views of the Council of Governors.
- 41.8 Each forward plan must include information about:
 - 41.8.1 the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on; and
 - 41.8.2 the income it expects to receive from doing so.
- 41.9 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in paragraph 41.8.1 the Council of Governors must:
 - 41.9.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions; and
 - 41.9.2 notify the Directors of the Trust of its determination.
- 41.10 Where the Trust 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 it may implement the proposal only if more than half of the members of the Council of Governors voting approve its implementation.

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

42.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors and at the Trust's Annual Members Meeting:

- 42.1.1 the Trust's annual accounts;

42.1.2 any report of the Auditor on them; and

42.1.3 the Trust's Annual Report.

42.2 The documents shall also be presented to the members of the Trust at the Annual Members' Meeting by at least one (1) member of the Board of Directors in attendance.

42.3 The Trust may combine a Meeting of the Council of Governors convened for the purposes of paragraph 42.1 with the Annual Members' Meeting.

43 Instruments

43.1 The Trust shall have a seal.

43.2 The seal shall not be affixed except under the authority of the Board of Directors. Attestation by any two Directors shall be deemed to constitute affixing the seal under the authority of the Board of Directors or a committee under a delegation.

44 Amendment of the Constitution

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

44.1.1 more than half of the members of the Board of Directors of the Trust voting approve the amendments; and

44.1.2 more than half of the members of the Council of Governors of the Trust voting approve the amendments.

44.2 Amendments made under paragraph 44.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the Constitution would, as a result of the amendment, not accord with Schedule 7 of the 2006 Act.

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

44.3.1 at least one (1) member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment; and

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

44.4 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.

44.5 Amendments to this Constitution are to be notified to NHS England. For the avoidance of doubt, NHS England'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.

45 Mergers etc. and significant transactions

45.1 The Trust may only apply for a Statutory Transaction with the approval of more than half of the members of the Council of Governors.

45.2 The Trust may enter into a Significant Transaction only if more than half of the members of the Council of Governors of the Trust voting approve entering into the transaction.

45.3 For the purposes of paragraph 45.2 a Statutory Transaction is not a Significant Transaction.

46 Procedures and practices

46.1 The Board of Directors shall adopt such procedures and practices (by way of a Governance Manual or otherwise) as it deems to be appropriate for the good governance of the Trust from time to time. For the avoidance of doubt, any such practices and procedures adopted by the Board of Directors for the purposes of good governance shall not form part of this Constitution.

47 Indemnity

47.1 Members of the Board of Directors, the Council of Governors and the Trust Secretary who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust.

47.2 The Trust may purchase and maintain for members of the Board of Directors, Council of Governors, and the Trust Secretary insurance in respect of directors' and officers' liability, including, without limitation, liability arising by reason of the Trust acting as a corporate trustee of an NHS charity.

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Annex 1 The Public Constituencies

There shall be one Public Constituency. Members of the public shall be eligible for membership of the Public Constituencies as shown in the table below:

Public Constituency	Electoral area	Minimum number of members
Norfolk, Suffolk and Rest of England	The areas of the Public Constituency is as defined by the following electoral wards: All wards in England	500

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Annex 2 The Staff Constituency

Class	Description	Minimum number of members
Staff	Individuals who are employed by the Trust under a contract of employment which has no fixed term or has a fixed term of more than 12 months; or have been continuously employed by the Trust under a contract of employment for at least 12 months.	750
Total		750

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Annex 3 Further provisions for the Council of Governors

1 Composition

1.1 The Council of Governors shall comprise 19 governors as set out in the tables below:

Public Governors

Public Constituency	Number of governors
Norfolk, Suffolk and Rest of England	10
Total:	10

Staff Governors

Staff Class	Number of governors
Staff	4
Total:	4

Appointed Governors

Appointing Organisation	Number of governors
Great Yarmouth Borough Council	1
East Suffolk Council	1
University of East Anglia or University of Suffolk	1
Norfolk County Council	1
Suffolk County Council	1
Total:	5

2 Disqualification and removal

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

2.1.1 a person who is a Director of the Trust;

2.1.2 a person who is a director of another Foundation Trust;

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- 2.1.3 a person who has resigned following suspension or been removed as a Governor of another Foundation Trust;
 - 2.1.4 a person who has had their name removed from a list maintained under the regulations pursuant to Sections 91, 106, 123, or 146 of the 2006 Act, or the equivalent lists maintained by local health boards in Wales under the National Health Services (Wales) Act 2006, and they have not subsequently had their name included in such a list;
 - 2.1.5 a person who is subject to a Sex Offenders Order (under the Sex Offenders Act 1997 as amended by the Sexual Offences Act 2003) and/or whose name is included in the Sex Offender Register (established under the Sexual Offences Act 2003);
 - 2.1.6 a person who is incapable by reason of mental disorder, injury, or illness of managing and administering their property and affairs;
 - 2.1.7 a person who has failed to give written consent to the Trust Secretary to enable them to request a third party to provide data that will verify the person's status in relation to paragraphs 2.1.1 to 2.1.6 above;
 - 2.1.8 a person who has refused to take any training required by the Council of Governors for all Governors.
- 2.2 If a Governor fails to attend more than 2 consecutive meetings of the Council of Governors in any Financial Year, their tenure of office is to be terminated immediately unless the other Governors are satisfied that:
- 2.2.1 the absence was due to a reasonable cause; and
 - 2.2.2 they will be able to start attending meetings of the Council of Governors again within such a period as they consider reasonable.
- 2.3 If a Governor is considered to have acted in a manner inconsistent with:
- 2.3.1 the vision and values of the Trust and the core principles of the NHS;
 - 2.3.2 the terms of the Trust's license; or
 - 2.3.3 the standing orders of the Council of Governors; or
 - 2.3.4 the Governors' Code of Conduct; or
 - 2.3.5 except as a result of a genuine mistake or where reasonable cause can be shown or where they can demonstrate that they have gained no personal benefit, they have failed to declare an interest as required by the Constitution or the standing orders of the Council of Governors, or they have spoken or voted at a meeting on a matter in which they has an interest contrary to this Constitution or the standing orders of the Council of Governors, and this paragraph "interest" includes a pecuniary and a non-pecuniary interest and in either case whether direct or indirect, and

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they are judged to have so acted by a majority of not less than 75% of the Council of Governors present and voting then the Governor shall vacate their office immediately.

- 2.4 The standing orders of the Council of Governors shall provide for the process to be adopted in cases relating to the termination of a Governor's tenure.

3 Vacancies

- 3.1 Where a vacancy arises from the Council of Governors for any reason other than expiry of the term of office, the following provisions will apply:
- 3.2 Where the vacancy arises amongst the Appointed Governors, the Trust Secretary shall request that the appointing organisation appoints a replacement to hold office for the remainder of the term of office.
- 3.3 When a vacancy arises for one or more Elected Governors, the Council of Governors shall have the option to take from the list of members who stood for election at the most recent election of Governors from the class or constituency in question the next highest polling candidate. This procedure, which shall be an uncontested election for the purposes of the Model Election Rules as they apply to the Trust, shall be available to the Governors on 2 occasions within 12 months of the previous election. Governors appointed in this way shall hold office for a minimum of 6 months from their appointment but, subject thereto, shall hold office until the earlier of the conclusion of the next election of Governors and (except where the vacancy arose through expiry of a term of office) the date on which the term of office of the Governor whose cessation of office gave rise to the vacancy would have expired.

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Annex 4 Further provisions for members

1 Annual Members' Meeting

- 1.1 The Chair of the Trust or, in their absence, the Deputy Chair or another Non-Executive Director, shall preside at the Annual Members' Meeting. For the avoidance of doubt, no Annual Members' Meeting may proceed in the absence of the Chair or a Non-Executive Director.
- 1.2 Before a members' meeting can do business, there must be a quorum present. Except where this Constitution states otherwise, a quorum is twenty (20) members with at least one (1) member present from each of the Trust's constituencies.
- 1.3 If a quorum is not present, no matter may be discussed or voted upon at that meeting and the meeting shall be adjourned. Such a position shall be recorded in the minutes of the meeting.
- 1.4 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 Board of Directors determines. If a quorum is not present within half an hour of the time fixed for the start of the adjourned meeting, the number of members present shall be a quorum.

2 Restriction on membership

- 2.1 An individual shall not become or continue as a member if:
 - 2.1.1 They are or wish to become a member of a Public Constituency and they do not or no longer reside within the relevant catchment area as set out in Annex 1;
 - 2.1.2 in the last 5 years prior to the individual's application for membership, the individual has been involved, as a perpetrator, in a serious incident of assault or violence, or in one or more incidents of harassment against any persons working for the Trust or any other NHS Body or any service users, or carers, or visitors to the Trust or any other NHS Body;
 - 2.1.3 in the last 5 years the individual has been excluded from any of the Trust's premises from which services are provided;
 - 2.1.4 the individual is a vexatious complainant as determined by the Trust Secretary in accordance with the Trust's complaints policy; or
 - 2.1.5 the Council of Governors resolves that there are reasonable grounds to believe that the individual is likely to:
 - (a) prejudice the ability of the Trust to fulfil its Principal Purpose or other of its purposes under the Constitution or otherwise to discharge its duties and functions; or

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- (b) harm the Trust's work with other persons or bodies with whom it is engaged or may be engaged in the provision of goods and services; or
- (c) adversely affect public confidence in the goods or services provided by the Trust; or
- (d) otherwise bring the Trust into disrepute

2.1.6 the individual is a former employee of the Trust and their contract has been terminated due to poor performance or misconduct.

2.2 No person who has been expelled from membership of the Trust is to be re-admitted as a member except by a resolution carried by the votes of two-thirds of the Council of Governors present and voting at a general meeting of the Council of Governors.

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Annex 5 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 consent and particulars
11. Declaration of interests
12. Declaration of eligibility
13. Signature of candidate
14. Decisions as to validity of nomination papers
15. Publication of statement of nominated candidates
16. Inspection of statement of nominated candidates and nomination papers
17. Withdrawal of candidates
18. Method of election

Part 5 – Contested elections

19. Poll to be taken by ballot
20. The ballot paper
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Action to be taken before the poll

22. List of eligible voters
23. Notice of poll
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The poll

26. Eligibility to vote
27. Voting by persons who require assistance
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Procedure for receipt of envelopes

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- 32. Receipt of voting documents
- 33. Validity of ballot paper
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Part 6 - Counting the votes

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- fpp47. Declaration of result for contested elections
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Part 8 – Disposal of documents

- 49. Sealing up of documents relating to the poll
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- 51. Forwarding of documents received after close of the poll
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- fpp54. Countermand or abandonment of poll on death of candidate
- stv54. Countermand or abandonment of poll on death of candidate

Part 10 – Election expenses and publicity

Expenses

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

Publicity

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

Part 11 – Questioning elections and irregularities

- 61. Application to question an election

Part 12 – Miscellaneous

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

Part 1 - Interpretation

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

Part 2 – Timetable for election

2. Timetable - The proceedings at an election shall be conducted in accordance with the following timetable. Proceeding	Time
Publication of notice of election	Not later than the fortieth day before the day of the close of the poll.
Final day for delivery of nomination papers to returning officer	Not later than the twenty eighth day before the day of the close of the poll.
Publication of statement of nominated candidates	Not later than the twenty seventh day before the day of the close of the poll.
Final day for delivery of notices of withdrawals by candidates from election	Not later than twenty fifth day before the day of the close of the poll.
Notice of the poll	Not later than the fifteenth day before the day of the close of the poll.
Close of the poll	By 5.00pm on the final day of the election.

3. Computation of time - (1) In computing any period of time for the purposes of the timetable -
 (a) a Saturday or Sunday;
 (b) Christmas day, Good Friday, or a bank holiday, or
 (c) a day appointed for public thanksgiving or mourning,

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

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

Part 3 – Returning officer

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

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

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

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

(a) any expenses incurred by that officer in the exercise of his or her functions under these rules,

(b) such remuneration and other expenses as the corporation may determine.

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

Part 4 - Stages Common to Contested and Uncontested Elections

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

(a) the constituency, or class within a constituency, for which the election is being held,

(b) the number of members of the board of governors to be elected from that constituency, or class within that constituency,

(c) the details of any nomination committee that has been established by the corporation,

(d) the address and times at which nomination papers may be obtained;

(e) the address for return of nomination papers and the date and time by which they must be received by the returning officer,

(f) the date and time by which any notice of withdrawal must be received by the returning officer

(g) the contact details of the returning officer, and

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

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

(2) The returning officer-

(a) is to supply any member of the corporation with a nomination paper, and

(b) is to prepare a nomination paper for signature at the request of any member of the corporation,

but it is not necessary for a nomination to be on a form supplied by the returning officer.

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

(a) full name,

(b) contact address in full, and

(c) constituency, or class within a constituency, of which the candidate is a member.

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

(a) any financial interest that the candidate has in the corporation, and

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

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

- (a) that he or she is not prevented from being a member of the board of governors by paragraph 8 of Schedule 1 of the 2003 Act or by any provision of the constitution; and,
- (b) for a member of the public or patient constituency, of the particulars of his or her qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

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

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

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

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

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

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

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

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

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

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

(2) The statement must show –

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

(b) the declared interests of each candidate standing, as given in their nomination paper.

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

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

16. Inspection of statement of nominated candidates and nomination papers – (1)

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

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

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

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

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

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

(a) the candidates who remain validly nominated are to be declared elected in accordance with Part 7 of these rules, and

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

Part 5 – Contested elections

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

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

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

(2) Every ballot paper must specify –

(a) the name of the corporation,

(b) the constituency, or class within a constituency, for which the election is being held,

(c) the number of members of the board of governors to be elected from that constituency, or class within that constituency,

(d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,

(e) instructions on how to vote,

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(f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and

(g) the contact details of the returning officer.

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

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

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

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

(a) that the voter is the person to whom the ballot paper was addressed,

(b) that the voter has not marked or returned any other voting paper in the election, and

(c) for a member of the public or patient constituency, of the particulars of that member's qualification to vote as a member of the constituency or class within a constituency for which the election is being held.

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

(a) the name of the voter,

(b) the address of the voter,

(c) the voter's signature, and

(d) the date that the declaration was made by the voter.

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

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

Action to be taken before the poll

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

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

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

(a) the name of the corporation,

(b) the constituency, or class within a constituency, for which the election is being held,

(c) the number of members of the board of governors to be elected from that constituency, or class with that constituency,

(d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,

(e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,

(f) the address for return of the ballot papers, and the date and time of the close of the poll,

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(g) the address and final dates for applications for replacement ballot papers, and

(h) the contact details of the returning officer.

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

(a) a ballot paper and ballot paper envelope,

(b) a declaration of identity (if required),

(c) information about each candidate standing for election, pursuant to rule 59 of these rules, and

(d) a covering envelope.

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

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

(2) The covering envelope is to have –

(a) the address for return of the ballot paper printed on it, and

(b) pre-paid postage for return to that address.

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

(a) the completed declaration of identity if required, and

(b) the ballot paper envelope, with the ballot paper sealed inside it.

The poll

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

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

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

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

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

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

(a) is satisfied as to the voter’s identity, and

(b) has ensured that the declaration of identity, if required, has not been returned.

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

(a) the name of the voter, and

(b) the details of the unique identifier of the spoilt ballot paper (if that officer was able to obtain it), and

(c) the details of the unique identifier of the replacement ballot paper.

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

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

(a) is satisfied as to the voter’s identity,

(b) has no reason to doubt that the voter did not receive the original ballot paper, and

(c) has ensured that the declaration of identity if required has not been returned.

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

(a) the name of the voter, and

(b) the details of the unique identifier of the replacement ballot paper.

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

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

(a) the name of the voter, and

(b) the details of the unique identifier of the replacement ballot paper issued under this rule.

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

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

(a) that the voter has not voted in the election with any ballot paper other than the ballot paper being returned with the declaration, and

(b) of the particulars of that member’s qualification to vote as a member of the public or patient constituency, or class within a constituency, for which the election is being held.

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

(a) the name of the voter,

(b) the address of the voter,

(c) the voter’s signature, and

(d) the date that the declaration was made by the voter.

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

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

Procedure for receipt of envelopes

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

(a) covering envelope, or

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(b) any other envelope containing a declaration of identity if required, a ballot paper envelope, or a ballot paper, before the close of the poll, that officer is to open it as soon as is practicable; and rules 33 and 34 are to apply.

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

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

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

33. Validity of ballot paper –

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

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

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

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

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

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

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

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

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

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

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Part 6 - Counting the votes

stv36. Interpretation of Part 6 – In Part 6 of these rules –

“continuing candidate” means any candidate not deemed to be elected, and not excluded,
“count” means all the operations involved in counting of the first preferences recorded for candidates, the transfer of the surpluses of elected candidates, and the transfer of the votes of the excluded candidates,

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

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

“non-transferable vote” means a ballot paper –

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

(b) which is excluded by the returning officer under rule stv44(4) below,

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

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

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

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

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

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

“stage of the count” means –

(a) the determination of the first preference vote of each candidate,

(b) the transfer of a surplus of a candidate deemed to be elected, or

(c) the exclusion of one or more candidates at any given time,

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

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

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

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

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

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

(b) count the votes according to the provisions in this Part of the rules.

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

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

Stv39. Rejected ballot papers – (1) Any ballot paper –

(a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,

(b) on which the figure “1” standing alone is not placed so as to indicate a first preference for any candidate,

(c) on which anything is written or marked by which the voter can be identified except the unique identifier, or

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

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

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

fpp39. Rejected ballot papers – (1) Any ballot paper – (a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,

(b) on which votes are given for more candidates than the voter is entitled to vote,

(c) on which anything is written or marked by which the voter can be identified except the unique identifier, or

(d) which is unmarked or rejected because of uncertainty, shall, subject to paragraphs (2) and (3) below, be rejected and not counted.

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

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

(a) elsewhere than in the proper place,

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

(c) by more than one mark,

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

(4) The returning officer is to –

(a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and

(b) in the case of a ballot paper on which any vote is counted under paragraph (2) or (3) above, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

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(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.

stv40. First stage – (1) The returning officer is to sort the ballot papers into parcels according to the candidates for whom the first preference votes are given.

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

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

stv41. The quota – (1) The returning officer is to divide the number of valid ballot papers by a number exceeding by one the number of members to be elected.

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

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

stv42. Transfer of votes – (1) Where the number of first preference votes for any candidate exceeds the quota, the returning officer is to sort all the ballot papers on which first preference votes are given for that candidate into sub-parcels so that they are grouped –

(a) according to next available preference given on those papers for any continuing candidate, or

(b) where no such preference is given, as the sub-parcel of non-transferable votes.

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

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

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

(a) reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus, and

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

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

(a) according to the next available preference given on those papers for any continuing candidate, or

(b) where no such preference is given, as the sub-parcel of non-transferable votes.

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

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

(a) a transfer value calculated as set out in paragraph (4)(b) above, or

(b) at the value at which that vote was received by the candidate from whom it is now being transferred,

whichever is the less.

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

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

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

(a) less than the difference between the total vote then credited to the continuing candidate with the lowest recorded vote and the vote of the candidate with the next lowest recorded vote, or

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

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

stv43. Supplementary provisions on transfer – (1) If, at any stage of the count, two or more candidates have surpluses, the transferable papers of the candidate with the highest surplus shall be transferred first, and if –

(a) The surpluses determined in respect of two or more candidates are equal, the transferable papers of the candidate who had the highest recorded vote at the earliest preceding stage at which they had unequal votes shall be transferred first, and

(b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot, and the transferable papers of the candidate on whom the lot falls shall be transferred first.

(2) The returning officer shall, on each transfer of transferable papers under rule stv42 above –

(a) record the total value of the votes transferred to each candidate,

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

(c) record as non-transferable votes the difference between the surplus and the total transfer value of the transferred votes and add that difference to the previously recorded total of non-transferable votes, and

(d) compare—

(i) the total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes, with

(ii) the recorded total of valid first preference votes.

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

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

stv44. Exclusion of candidates – (1) If—

(a) all transferable papers which under the provisions of rule stv42 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and

(b) subject to rule stv45 below, one or more vacancies remain to be filled, the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where paragraph (12) below applies, the candidates with the then lowest votes).

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

(a) ballot papers on which a next available preference is given, and

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

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

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

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

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

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

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

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

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

(a) record –

(i) the total value of votes, or

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

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

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(c) record the value of non-transferable votes and add that value to the previous non-transferable votes total, and

(d) compare—

(i) the total number of votes then recorded for each candidate together with the total number of non-transferable votes, with

(ii) the recorded total of valid first preference votes.

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

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

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

(a) regard shall be had to the total number of votes credited to those candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded, and

(b) where the number of votes credited to those candidates was equal at all stages, the returning officer shall decide between the candidates by lot and the candidate on whom the lot falls shall be excluded.

stv45. Filling of last vacancies – (1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

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

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

stv46. Order of election of candidates – (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule stv42(10) above.

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

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

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

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fpp46. Equality of votes – Where, after the counting of votes is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer is to decide between those candidates by a lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Part 7 – Final proceedings in contested and uncontested elections

fpp47. Declaration of result for contested elections – (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to –

(a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the board 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 4(4) of the 2003 Act, to the chairman of the NHS Trust, or

(ii) in any other case, to the chairman of the corporation; and

(c) give public notice of the name of each candidate whom he or she has declared elected.

(2) The returning officer is to make –

(a) the total number of votes given for each candidate (whether elected or not), and

(b) the number of rejected ballot papers under each of the headings in rule fpp39(5),

available on request.

stv47. Declaration of result for contested elections – (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to—

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

(b) give notice of the name of each candidate who he or she has declared elected –

(i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 4(4) of the 2003 Act, to the 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.

(2) The returning officer is to make –

(a) the number of first preference votes for each candidate whether elected or not,

(b) any transfer of votes,

(c) the total number of votes for each candidate at each stage of the count at which such transfer took place,

(d) the order in which the successful candidates were elected, and

(e) the number of rejected ballot papers under each of the headings in rule stv39(1), available on request.

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

(a) declare the candidate or candidates remaining validly nominated to be elected,

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

Part 8 – Disposal of documents

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

- (a) the counted ballot papers,
 - (b) the ballot papers endorsed with “rejected in part”,
 - (c) the rejected ballot papers, and
 - (d) the statement of rejected ballot papers.
- (2) The returning officer must not open the sealed packets of –
- (a) the disqualified documents, with the list of disqualified documents inside it,
 - (b) the declarations of identity,
 - (c) the list of spoilt ballot papers,
 - (d) the list of lost ballot papers,
 - (e) the list of eligible voters, and
 - (f) the list of tendered ballot papers.
- (3) The returning officer must endorse on each packet a description of –
- (a) its contents,
 - (b) the date of the publication of notice of the election,
 - (c) the name of the corporation to which the election relates, and
 - (d) the constituency, or class within a constituency, to which the election relates.

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

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

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

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

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

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

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

53. Application for inspection of certain documents relating to an election – (1) The corporation may not allow the inspection of, or the opening of any sealed packet containing

–

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

by any person without the consent of the Regulator.

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

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

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

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

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

- (a) in giving its consent, the regulator, and

(b) and making the documents available for inspection, the corporation, must ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established –

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

Part 9 – Death of a candidate during a contested election

fpp54. Countermand or abandonment of poll on death of candidate – (1) If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to

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

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

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

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

(5) The returning officer is to –

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

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

stv54. Countermand or abandonment of poll on death of candidate – (1) If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to –

- (a) publish a notice stating that the candidate has died, and
- (b) proceed with the counting of the votes as if that candidate had been excluded from the count so that –
 - (i) ballot papers which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted, and
 - (ii) ballot papers which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences marked for the candidate who has died.
- (2) The ballot papers which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot papers pursuant to rule 49(1)(a).

Part 10 – Election expenses and publicity
Election expenses

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

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

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

57. Election expenses incurred by other persons –

- (1) No person may -
 - (a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise, or
 - (b) give a candidate or his or her family any money or property (whether as a gift, donation, loan, or otherwise) to meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.
- (2) Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 58 and 59.

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Publicity

58. Publicity about election by the corporation –

- (1) The corporation may –
- (a) compile and distribute such information about the candidates, and
 - (b) organise and hold such meetings to enable the candidates to speak and respond to questions,
- as it considers necessary.
- (2) Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 59, must be –
- (a) objective, balanced and fair,
 - (b) equivalent in size and content for all candidates,
 - (c) compiled and distributed in consultation with all of the candidates standing for election, and
 - (d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.
- (3) Where the corporation proposes to hold a meeting to enable the candidates to speak, the corporation must ensure that all of the candidates are invited to attend, and in organising and holding such a meeting, the corporation must not seek to promote or procure the election of a specific candidate or candidates at the expense of the electoral prospects of one or more other candidates.

59. Information about candidates for inclusion with voting documents - (1) The corporation must compile information about the candidates standing for election, to be distributed by the returning officer pursuant to rule 24 of these rules.

- (2) The information must consist of –
- (a) a statement submitted by the candidate of no more than [250] words, [and]
 - [(b) a photograph of the candidate.]

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

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

Part 11 – Questioning elections and the consequence of irregularities

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

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

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

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

(4) The application must –

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

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

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

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

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

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

Part 12 – Miscellaneous

62. Secrecy – (1) The following persons –

(a) the returning officer,

(b) the returning officer's staff,

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

(i) the name of any member of the corporation who has or has not been given a ballot paper or who has or has not voted,

(ii) the unique identifier on any ballot paper,

(iii) the candidate(s) for whom any member has voted.

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

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

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

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

(a) a member of the corporation,

(b) an employee of the corporation,

(c) a director of the corporation, or

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

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

(a) the delivery of the documents in rule 24, or

(b) the return of the ballot papers and declarations of identity, the returning officer may extend the time between the publication of the notice of the poll and the close of the poll, with the agreement of the Regulator.

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Standing Orders for Practice and Procedure for the Board of Directors

1. Introduction

- 1.1 These Standing Orders set out the practice and procedure of the Board of Directors (**Board**) of each of Norfolk and Norwich University Hospitals NHS Foundation Trust, the James Paget University Hospitals NHS Foundation Trust, and Queen Elizabeth Hospital King's Lynn NHS Foundation Trust (the **Trusts**). The Trusts are working together as the Norfolk and Waveney University Hospitals Group (the **Group**).
Interpretation
- 1.2 Save as permitted by law and subject to the Constitution, the Group Chair shall be the final authority on the interpretation of these Standing Orders (on which they should be advised by the Trust Secretary).
- 1.3 Unless contrary intention is evident or the context requires otherwise, words or expressions contained in these Standing Orders shall bear the same meaning as in each Trust's Constitution.
- 1.4 These Standing Orders apply to each Trust within the Group and references in these Standing Orders shall be interpreted accordingly to refer to the relevant Trust and its structures and policies, including its Constitution. Each Trust remains a separate statutory organisation.

2. General

- 2.1 All business shall be conducted in the name of the Trust.
- 2.2 All funds received in trust shall be in the name of the Trust as corporate trustee. In relation to funds held on trust, powers exercised by the Trust as corporate trustee shall be exercised separately and distinctly from those powers exercised as a Trust.
- 2.3 The Trust has resolved that certain powers and decisions may only be exercised or made by the Board in formal session. These powers and decisions are the Reserved Functions of the Board set out in the Trust's Scheme of Reservation and Delegation.

3. Meetings

- 3.1 Meetings of the Board must be open to the public, unless the Board in its absolute discretion decides otherwise in accordance with paragraph 31.1 of the Constitution.
- 3.2 The Group Chair shall give such directions as they think fit in regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that business shall be conducted without interruption and disruption. The Group Chair may

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exclude any member of the public or representative from the press from the meeting of the Board if they consider that that member of the public or representative from the press is interfering with or preventing the proper conduct of the meeting.

3.3 Any record of the proceedings taken by the public or representatives of the press shall only be in writing unless otherwise agreed by the Board.

3.4 Calling Meetings

3.4.1 Ordinary meetings of the Board shall be held at such times, places and format (including in-person, electronic, or hybrid) as the Board may determine. The Group Chair or Trust Secretary may call a meeting of the Board at any time.

3.4.2 Four Directors may call a meeting of the Board at any time upon submitting a request in writing to the Trust Secretary. If a meeting is not then called within a period of at least fourteen but not more than twenty-eight days of a request being presented, the four Directors may call such a meeting.

3.5 Notice of Meetings

3.5.1 Before each meeting, a notice of the meeting, specifying the business proposed to be transacted, shall be delivered to every Director, or sent by post or email to their usual place of residence, so as to be available to them at least three Clear Days before the meeting. The Group Chair may waive the notice required in the case of emergencies or in the case of the need to conduct urgent business.

3.5.2 Lack of service of the notice on any Director shall not affect the validity of a meeting.

3.5.3 A public notice of the date, time and place of each Board meeting will also be displayed at the Trust's headquarters and on the Trust's website at least three clear days before the meeting.

3.6 Setting the Agenda

3.6.1 The agenda for all the meetings will be prepared by the Group Chair and Chief Executive, assisted by the Trust Secretary.

3.6.2 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.

3.6.3 A Director who wishes to add an item should notify the Group Chair at least ten days before the meeting.

3.7 Chair of Meeting

- 3.7.1 At any meeting of the Board, the Group Chair, if present, shall preside. If the Group Chair is absent from the meeting, the Deputy Chair, if there is one and they are present, shall preside. If the Group Chair and Deputy Chair are absent, such Non-Executive Director as the Directors present shall choose shall preside.
- 3.7.2 If the Group Chair is absent from a meeting temporarily on the grounds of a declared conflict of interest the Deputy Chair, if present, shall preside. If the Group Chair and Deputy Chair are absent, or are disqualified from participating, such Non-Executive Director as the Directors present shall choose shall preside.
- 3.8 Quorum
- 3.8.1 No business shall be transacted at a meeting of the Board unless at least one third of the whole number of Directors is present, including at least one Executive Director and one Non-Executive Director.
- 3.8.2 An officer in attendance for an Executive Director at the Board but without formal acting up status may not count towards the quorum.
- 3.9 Attendance at Meetings
- 3.9.1 The Board may agree that its members can participate in its meetings by telephone, video or computer link provided it remains live and uninterrupted. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting.
- 3.9.2 Directors who are unable to attend a meeting should advise the Trust Secretary in advance of the meeting so that their apologies may be submitted.
- 3.10 Chair's Ruling
- 3.10.1 Statements of Directors made at meetings of the Board shall be relevant to the matter under discussion at the material time and the decision of the Chair of the meeting on questions of order, relevancy, regularity and any other matters shall be observed at the meeting.
- 3.11 Voting
- 3.11.1 Subject to any legal requirements or any requirements of the Constitution, if in the opinion of the Chair of the meeting, a vote should be required on a question at the meeting, it shall be determined by a majority of the votes of the Directors present and voting on the question and, in the case of any

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equality of votes, the Chair of the meeting shall have a second or casting vote.

- 3.11.2 All questions put to the vote shall, at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Directors present so request or the Chair of the meeting so directs.
- 3.11.3 If at least one-third of the Directors present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Director present voted or abstained.
- 3.11.4 If a Director so requests, their vote shall be recorded by name upon any vote (other than by paper ballot).
- 3.11.5 In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.

3.12 Minutes

- 3.12.1 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.
- 3.12.2 No discussion shall take place upon the minutes except upon their accuracy or where the Chair of the meeting considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.
- 3.12.3 The names of the Directors present at the meeting shall be recorded in the minutes.
- 3.12.4 A copy of the minutes, following agreement from the Board, will be made available to the Council of Governors.
- 3.12.5 Where providing a record of a public meeting, the minutes shall be made available to the public.

4. Arrangement for the Exercise of Functions by Delegation

- 4.1 Subject to the Constitution, the Trust's Licence or any legal requirements, the Board may make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee or sub-committee of Directors or by an Executive Director, or by a joint committee, in each case subject to such restrictions and conditions as the Board thinks fit.
- 4.2 A written Scheme of Reservation and Delegation (SoRD) shall be prepared by the Trust Secretary and approved by the Board.

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- 4.3 Nothing in the SoRD shall impair the overall responsibility of the Board or the discharge of the direct accountability to the Board of the Chief Executive or other Executive Director to provide information and advise the Board in accordance with the Constitution or any statutory requirements or any requirements of the Trust's Licence.
- 4.4 The powers which the Board has retained to itself may in emergency be exercised by the Chief Executive and the Group Chair. The exercise of such powers by the Chief Executive and the Group Chair shall be reported to the next formal meeting of the Board for ratification.

5. Committees

- 5.1 Subject to the Constitution and such directions as may be given by NHS England, the Board may appoint committees and joint committees of the Board.
- 5.2 Each such committee or joint committee shall have such terms of reference and powers and be subject to such conditions, as the Board shall decide.
- 5.3 Committees or joint committees may not delegate their executive powers to a sub-committee unless expressly authorised by the Board.
- 5.4 Any committee or joint committee minutes will be shared with the Board.

6. Standards of Business Conduct and Interests

- 6.1 All Directors shall comply with the Standards of Business Conduct, Conflicts of Interest and Anti-Fraud and Anti-Bribery Policies.
- 6.2 Directors are required to comply with the Trust's Standards of Business Conduct, to declare interests that are required to be declared by the Constitution and to declare any other interests that are material to the Board. All Directors should declare such interests on appointment and on any subsequent occasion that a conflict arises.
- 6.3 At the time Directors' interests are declared, they should be recorded in the Board minutes. Any changes in interests should be declared at the next Board meeting following the change occurring. It is the obligation of the Director to inform the Trust Secretary in writing within seven days of becoming aware of the existence of a relevant or material interest.
- 6.4 Unless otherwise authorised by the remaining members of the Board, if a conflict of interest is established during the course of a Board meeting, the Director 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 Chair of the meeting having the casting vote.

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- 6.5 In accordance with the Constitution, the Trust Secretary will ensure that a Register of Interests is established to record formal declarations of interests of Directors.
- 6.6 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.
- 6.7 The Register will be available to the public and the Trust Secretary will take reasonable steps to bring the existence of the Register to the attention of the local population and to publicise arrangements for viewing it.

7. Review, Suspension and Change of Standard Orders

7.1 Suspension of Standing Orders

- 7.1.1 Except where this would contravene any provision of the Constitution, any statutory provision or any requirement of the Trust's Licence, any one or more of these SOs may be suspended at any meeting, provided that at least two-thirds of the Directors are present. This shall include at least one Executive Director and one Non-Executive Director and a majority of those present vote in favour of suspension.
- 7.1.2 A decision to suspend SOs shall be recorded in the minutes of the meeting.
- 7.1.3 No formal business may be transacted while SOs are suspended for procedural purposes.
- 7.1.4 The Audit Committee shall review every decision of the Board to suspend SOs.

7.2 Variation and Amendment of Standing Orders

- 7.2.1 These Standing Orders may only be amended if:
- (a) No fewer than half the total of the Trust's Non-Executive Directors vote in favour of amendment; and
 - (b) at least two-thirds of the Directors are present; and
 - (c) the variation proposed does not contravene a statutory provision or direction.
- 7.2.2 The Board will review these Standing Orders annually.

Custody of Seal and Sealing of Documents

- 8.1 The Trust Secretary shall have charge of the Trust's seal which will be kept in a secure place.

- 8.2 The seal of the Trust shall not be fixed to any documents unless the sealing has been authorised by a resolution of the Board or of a committee or joint committee, where the Board has delegated its powers.
- 8.3 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. A report of all sealings should be made to the Audit Committee on an annual basis.

9. Adoption

- 9.1 These Standing Orders were approved by the Board on **[Insert date]** and take effect immediately.

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**Standing Financial Instructions of Norfolk and Norwich
University Hospitals NHS Foundation Trust, James Paget
University Hospitals NHS Foundation Trust and The Queen
Elizabeth Hospital King's Lynn NHS Foundation Trust**

Adopted independently by each Trust's Board of Directors

Effective from [insert date]

These Standing Financial Instructions shall be read in conjunction with the Finance Operating Manual and the Scheme of Reservation and Delegation.

This document supersedes previous versions of the Standing Financial Instructions.

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1 INTRODUCTION

1.1 GENERAL – POLICY PURPOSE

- 1.1.1 These Standing Financial Instructions are adopted independently by the Board of Directors of Norfolk and Norwich University Hospitals NHS Foundation Trust, James Paget University Hospitals NHS Foundation Trust and The Queen Elizabeth Hospital King's Lynn NHS Foundation Trust. They establish the framework for financial control, stewardship of public funds, regularity, propriety and value for money in accordance with the National Health Service Act 2006, each Trust's Constitution and Standing Orders.
- 1.1.2 These Standing Financial Instructions operate alongside the Scheme of Reservation and Delegation and any Finance Operating Manual issued by the Chief Finance Officer. These Standing Financial Instructions shall not be interpreted as extending any delegated authority beyond that permitted by each Trust's Constitution, Standing Orders or the Provider Collaboration Agreement.
- 1.1.3 These Standing Financial Instructions identify the financial responsibilities that apply to everyone working for each Trust. They do not provide detailed procedural advice and should be read in conjunction with the detailed departmental and financial procedure notes.
- 1.1.4 These Standing Financial Instructions apply to all members of the Board of Directors, members of the General Purpose Joint Committee when exercising delegated functions, employees and any person acting on behalf of a Trust.
- 1.1.5 Should any difficulties arise regarding the interpretation or application of any of the Standing Financial Instructions then the advice of the Chief Finance Officer must be sought. The user of these Standing Financial Instructions should also be familiar with and comply with the provisions of the relevant Trust's Scheme of Reservation and Delegation, and the Provider Collaboration Agreement dated 23 October 2025.
- 1.1.6 Failure to comply with the Foundation Trust Constitution, Scheme of Reservation and Delegation and / or the Standing Financial Instructions is a disciplinary matter that could result in dismissal.
- 1.1.7 **Overriding Standing Financial Instructions** – If for any reason these Standing Financial Instructions are not complied with full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance must be reported to the next formal meeting of the Audit Committee for referring action or ratification. Nothing in this provision permits unlawful expenditure. All members of the Board of Directors and staff have a duty to disclose any non-compliance

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with these Standing Financial Instructions to the Chief Finance Officer as soon as possible.

- 1.1.8 KPIs for non-compliance (e.g., frequency, financial impact) shall inform corrective actions, aligning with Oversight Framework 2025/26 financial overrides.

1.2 TERMINOLOGY

1.2.1 Any expression to which a meaning is given in the National Health Service Act 2006 (2006 Act), or in Directions made under the 2006 Act, shall have the same meaning in these instructions; and

- (a) **“Board”** means the Board of Directors of the Trust.
- (b) **“Budget”** means a quantified, financial target allocated for an identified purpose, and for a specific period, against which income and expenditure is monitored.
- (c) **“Budget Holder”** means the Director or employee with delegated authority to manage finances within the confines of the designated budgets (as defined above) for a specific area of each Trust.
- (d) **“Chief Executive Officer”** means the Chief Executive Officer of the Trust.
- (e) **“Chief Finance Officer”** means the chief financial officer of the Trust or designated individuals within his or her team.
- (f) **“Estates Manager”** means the senior Trust manager designated as the responsible individual within the estates team responsible for compliance with these instructions by the Chief Finance Officer.
- (g) **“Executive Director”** means an executive director appointed to the Board of the Trust in accordance with its Constitution.
- (h) **“Finance Operating Manual”** means procedural financial instructions issued by the Chief Finance Officer to supplement these Standing Financial Instructions.
- (i) **“Governor”** means a member of the Trust’s Council of Governors who is not an Officer of the Trust.
- (j) **“Group”** means the Trusts operating together as Norfolk and Waveney University Hospitals Group in accordance with a Provider Collaboration Agreement between the Trusts dated 23 October 2025.

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- (k) **“Group Board”** means the General Purpose Joint Committee established under sections 65Z5 and 65Z6 of the National Health Service Act 2006 which exercises delegated functions of each Trust Board in accordance with the Provider Collaboration Agreement dated 23 October 2025.
- (l) **“Non-Executive Director”** means the Group Chair or a Non-executive Director as defined in the Constitution of the Trust.
- (m) **“Officer”** means employee of the Trust or any other person holding a paid appointment or office within the Group.
- (n) **“Scheme of Delegation”** means the Scheme of Reservation and Delegation adopted by the Board.
- (o) **“Trust”** means Norfolk and Norwich University Hospitals NHS Foundation Trust, the James Paget University Hospitals NHS Foundation Trust and the Queen Elizabeth Hospital Kings Lynn NHS Foundation Trust as the context requires.

1.2.2 Wherever the title Chief Executive Officer, Chief Finance Officer or other nominated officer is used in these instructions, it shall be deemed to include such other Director or staff who have been duly authorised to represent them.

1.2.3 Wherever the term “staff” is used and where the context permits it shall be deemed to include staff of third parties contracted to the Trust when acting on behalf of the Trust.

1.3 RESPONSIBILITIES AND DELEGATION

1.3.1 Each Trust Board exercises financial supervision and control.

- (a) formulating the financial strategy;
- (b) requiring the submission and approval of budgets within overall income;
- (c) defining and approving essential features in respect of important procedures and financial systems (including the need to obtain value for money); and
- (d) defining specific responsibilities placed on members of the Board, the Group Board and staff as indicated in the Scheme of Delegation.

1.3.2 The General Purpose Joint Committee may exercise only those functions delegated to it by the Trust Boards in accordance with the Provider

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Collaboration Agreement and relevant Scheme of Reservation and Delegation.

- 1.3.3 The Chief Executive Officer of each Trust is accountable to the relevant Trust Board and, as Accounting Officer, to the Secretary of State for:
- (a) ensuring that the Trust Board meets its obligations to perform its functions within available financial resources;
 - (b) ensuring all staff are notified of the requirements of the Standing Financial Instructions;
 - (c) delegating the management of resources to Officers of each Trust in accordance with the Scheme of Delegation;
 - (d) ensuring that each Trust's financial obligations and targets are met; and
 - (e) taking overall responsibility for each Trust's system of internal control.

1.3.4 In performing these duties, the Chief Executive Officer will take due consideration of the advice given by the Chief Finance Officer. It is a duty of the Chief Executive Officer to ensure that existing members of the Board and employees and all new appointees are notified of, and understand, their responsibilities within these Instructions.

- 1.3.5 The Chief Finance Officer is responsible for:
- (a) implementing each Trust's financial policies and for coordinating any corrective action necessary to further these policies;
 - (b) maintaining an effective system of internal financial control including ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented, and maintained to supplement these instructions;
 - (c) ensuring that sufficient records are maintained to show and explain each Trust's transactions, in order to disclose, with reasonable accuracy, the financial position of each Trust at any time;

and, without prejudice to any other functions of each Trust, and its staff, the duties of the Chief Finance Officer include:

- (d) the provision of advice in relation to Finance to the Board, the Group Board, and staff;

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- (e) the preparation and maintenance of such accounts, certificates, estimates, records, and reports as each Trust may require for the purpose of carrying out its statutory duties.

1.3.6 All members of the Board, the Group Board and staff, are responsible for:

- (a) the security of the property of each Trust;
- (b) avoiding loss;
- (c) exercising economy and efficiency in the use of resources; and
- (d) conforming with the requirements of the Constitution, Standing Orders, Standing Financial Instructions, Financial Procedures, and the Scheme of Delegation, as well as HM Treasury's guidelines on Managing Public Money.

1.3.7 All Budget Holders have a responsibility to:

- (a) monitor activities to ensure resources are utilised in an effective and efficient manner;
- (b) ensure activities are conducted within the constraints of budgets;
- (c) provide all information and explanations required by the Chief Finance Officer to ensure financial control, enacted through the business of the operational meetings, Executive Team, and the Group Board; and
- (d) ensure the security of Trust assets including property, equipment, and cash.

1.3.8 Any contractor or staff of a contractor or staff of another organisation who is empowered by the Trust to commit the Trust to expenditure or who is authorised to obtain income shall be covered by these instructions. It is the responsibility of the Chief Executive Officer to ensure that such persons are made aware of this.

1.3.9 For any and all members of the Board and the Group Board and employees who carry out a financial function, the form in which financial records are kept and the manner in which members of the Board, the Group Board and employees discharge their duties must be to the satisfaction of the Chief Finance Officer.

1.4 ENFORCEMENT AND KPIS

1.4.1 Non-compliance shall be monitored via KPIS (e.g., waiver volumes, variance thresholds), reported quarterly to the Group Audit Committees in

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Common. This enables proactive group oversight per the Provider Collaboration Agreement.

2 AUDIT

2.1 AUDIT COMMITTEE

- 2.1.1 Each Trust Board shall establish an Audit Committee in accordance with its Constitution with clearly defined terms of reference, and following guidance from the NHS Audit Committee Handbook, which will provide an independent and objective view of internal control including financial control.
- 2.1.2 Where the Audit Committee considers there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters that the committee wish to raise, the Chair of the Audit Committee should raise the matter at a full meeting of the Group Board. Exceptionally, the matter may need to be reported to NHS England.
- 2.1.3 Where Audit Committees operate in common under the Provider Collaboration Agreement, they do so on behalf of each Trust Board.

2.2 CHIEF FINANCE OFFICER

- 2.2.1 The Chief Finance Officer is responsible for:
 - (a) deciding at what stage to involve the police and NHS Counter Fraud Authority (NHSCFA), in conjunction with the Local Counter Fraud Specialist (LCFS), in cases of misappropriation and other irregularities involving fraud or corruption; and
 - (b) ensuring that an annual internal audit report is prepared for the consideration of the Audit Committee in accordance with current Department of Health and Social Care and NHS England guidance.
- 2.2.2 The Chief Executive Officer shall ensure arrangements are in place for:
 - (a) ensuring there are arrangements to review, evaluate and report on the effectiveness of internal financial control including the establishment of an effective internal audit function; and
 - (b) ensuring that the internal audit exists to review, evaluate and report on the effectiveness of internal financial control to meet mandatory audit standards;

The Chief Finance Officer or designated auditors, either on their own initiative or at the request of the Audit Committee, are entitled to require and receive without necessarily giving prior notice:

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- (a) access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;
- (b) access at all reasonable times to any land, premises, or staff of the Trust;
- (c) the production of any cash, stores, or other property of each Trust under a member of staff's control; and
- (d) explanations concerning any matter under investigation.

2.3 ROLE OF INTERNAL AUDIT

2.3.1 Internal Audit will review appraise and report upon:

- (a) the extent of compliance with, and the financial effect of, relevant established policies, plans, and procedures;
- (b) the adequacy and application of financial and other related management controls;
- (c) the suitability of financial and other related management data;
- (d) the extent to which each Trust's assets and interests are accounted for and safeguarded from loss of any kind, arising from:
 - (i) fraud and other offences,
 - (ii) waste, extravagance, inefficient administration,
 - (iii) poor value for money or other causes.
- (e) the adequacy of management action in response to audit recommendations.

2.3.2 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores, or other property or any suspected irregularity in the exercise of any function of a pecuniary nature, the Chief Finance Officer must be notified immediately, who shall in turn notify the Local Security Management Specialist (LSMS), and/or the Chair of the Audit Committee.

2.3.3 The Chief Internal Auditor will normally attend Audit Committee meetings and has a right of access to all Audit Committee members, the Group Chair and the Chief Executive Officer.

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2.3.4 The Chief Internal Auditor shall have functional accountability to the Audit Committee and administrative reporting arrangements as agreed with the Chief Executive Officer.

2.4 EXTERNAL AUDIT

2.4.1 Each Trust will remain responsible for its own external audit. The external auditor is appointed by the Council of Governors of the Trust and paid for by each Trust. The Auditor must comply with the principles set out in the Code of Audit Practice issued by the National Audit Office.

2.4.2 The Council of Governors must ensure a cost-efficient external audit service is provided and periodically review the arrangements in conjunction with the Audit Committee.

2.5 FRAUD, BRIBERY AND CORRUPTION

2.5.1 In line with best practice the Chief Executive Officer and Chief Finance Officer shall monitor and ensure compliance with the NHS Counter Fraud Authority Counter Fraud Manual.

2.5.2 Each Trust shall nominate a suitable person to carry out the duties of the Local Counter Fraud Specialist as specified by the NHS Counter Fraud Authority Counter Fraud Manual and guidance.

2.5.3 A fraud offence can be committed by any person who dishonestly makes a false representation to make a gain for themselves or another or dishonestly fails to disclose to another person, information which he is under a legal duty to disclose, or commits fraud by abuse of position, including any offence as defined in the Fraud Act 2006.

Fraud offences include those defined in the Fraud Act 2006 such as:

- (a) Falsely claiming to be sick or working elsewhere whilst sick
- (b) Falsifying time records e.g. claiming pay for time not worked
- (c) Undertaking private work during NHS time
- (d) Unauthorised private use of NHS equipment with intent to avoid a charge or payment
- (e) Submitting altered/bogus invoices or claims for payment
- (f) Making false claims for subsistence & expenses
- (g) Falsifying any official records
- (h) Failing to declare criminal convictions to gain employment

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- 2.5.4 The Bribery Act 2010 provides four separate individual and corporate offences defined below.
- 2.5.5 It is an offence to:
- (a) promise, offer or give (sec.1 - active bribery);
 - (b) or request, agree to receive or accept (sec.2 - passive bribery);
an advantage (financial or otherwise), in circumstances involving the improper performance of a relevant function or activity;
 - (c) bribe a foreign public official (sec.6); or
 - (d) negligently fail to prevent a bribe (sec.7 – corporate offence).
- 2.5.6 In order to present a defence to the charge of ‘failing to prevent bribery’ an organisation must have sufficient and adequate procedures in place to prevent bribery by associated persons including those set out below. Full details can be obtained from the Anti-Fraud and Bribery Policy.
- 2.5.7 All staff and contractors should be made aware of the Bribery Act 2010 to ensure compliance. Any breach of the Bribery Act 2010 may result in criminal proceedings.
- 2.5.8 The Local Counter Fraud Specialist shall report to the Chief Finance Officer and shall work with staff in the NHS Counter Fraud Authority in accordance with the NHS Counter Fraud Manual.
- 2.5.9 In accordance with the Trust’s Anti-Fraud and Bribery Policy staff must report suspicions of NHS fraud or bribery to the Chief Finance Officer and / or the LCFS or via the secure NHS Fraud and Corruption [online tool](#) or Reporting Line (0800 028 40 60). The NHS Fraud and Corruption Reporting Line offers complete confidentiality, and callers can remain anonymous if they wish. Further details on reporting suspected fraud and bribery can be found in the Trust’s Anti-Fraud and Bribery Policy.
- 2.5.10 The Chief Finance Officer must inform the LCFS if a referral is made directly to them so that appropriate recording and action can be taken. The LCFS will seek approval from the Chief Finance Officer to pursue an investigation into any alleged incidents of fraud or bribery. The LCFS will work with HR to ensure that any criminal and disciplinary processes are closely aligned and support each other and the most appropriate sanctions or outcomes. The LCFS will regularly report on each investigation to the Chief Finance Officer and ensure that wider learning points and implications from any investigation are properly reviewed and changes implemented as appropriate.

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- 2.5.11 The Chief Finance Officer should also prepare a “Counter Fraud Policy and Response Plan” that sets out the action to be taken both by persons detecting a suspected fraud and those persons responsible for investigating it.
- 2.5.12 The Local Counter Fraud Specialist will attend Audit Committee meetings when necessary and has a right of access to all Audit Committee members, the Group Chair and Chief Executive Officer.
- 2.5.13 The Local Counter Fraud Specialist shall report to and be accountable to the Chief Finance Officer. The reporting system for Counter Fraud services shall be agreed between the Chief Finance Officer, the Audit Committee and the Local Counter Fraud Specialist and shall comply with the guidance on reporting contained in the NHS Counter Fraud Manual and guidance. The reporting system shall be reviewed at least every three years.
- 2.5.14 The Local Counter Fraud Specialist will provide a written report, at least annually, on counter fraud work within each Trust. Furthermore, progress reports will be submitted and presented by the LCFS to meetings of the Audit Committee throughout the financial year.
- 2.5.15 Each Trust is committed to pursuing and / or supporting NHS Counter Fraud Authority in pursuing the full range of available sanctions (criminal, civil and disciplinary) against those found to have committed fraud and / or bribery. Each Trust shall seek to recover (or support the NHS Counter Fraud Authority in seeking to recover) NHS funds that have been lost or diverted through fraud and / or bribery.

2.6 SECURITY MANAGEMENT

- 2.6.1 In line with best practice, the Chief Executive Officer shall monitor and ensure compliance with NHS England guidance on NHS security management.
- 2.6.2 Each Trust shall nominate a suitable person to carry out the duties of the Local Security Management Specialist (LSMS) as specified by the Secretary of State for Health and Social Care's guidance on NHS security management.
- 2.6.3 Each Trust shall prepare a security policy that sets out measures to protect staff, visitors, premises, and assets.

3 BUSINESS PLANNING, BUDGETARY CONTROL, AND MONITORING

3.1 PREPARATION AND APPROVAL OF BUSINESS PLANS AND BUDGETS

- 3.1.1 The Chief Executive Officer, with the assistance of the Chief Finance Officer, shall compile and submit operational business plans for approval by

the relevant Trust Board or, where delegated, the General Purpose Joint Committee in accordance with the guidance issued by NHS England. Any operational business plans shall be reconcilable to an annual update of the financial proforma, which the Chief Finance Officer will prepare and submit to the Group Board. Operational business plans will contain:

- (a) a statement of the significant assumptions on which the plan is based;
- (b) details of major changes in workload, delivery of services or resources required to achieve the plan; and
- (c) any other relevant information as required by NHS England's planning guidance.

3.1.2 Prior to the start of the financial year, or in accordance with the NHS England planning guidelines, the Chief Finance Officer will, on behalf of the Chief Executive Officer, prepare and submit a financial plan that is congruent with system requirements for approval by the Group Board. Such budgets will:

- (a) be in accordance with the aims and objectives set out in operational business plans;
- (b) accord with workload and workforce plans;
- (c) be produced following discussion with appropriate Budget Holders;
- (d) be prepared within the limits of available funds;
- (e) demonstrate the achievement of key financial targets such as strategic financial objectives of each Trust and the regulatory financial regime as advised by NHS England; and
- (f) identify potential risks and mitigations.

3.1.3 The Chief Finance Officer shall monitor financial performance against budget and business plan, periodically review them, and report financial performance to the Group Board and advise on any actions he or she deems appropriate. Reports will also be made to NHS England as required, using the appropriate templates issued by NHS England.

3.1.4 Officers shall provide the Chief Finance Officer with all financial, statistical, and other relevant information as necessary for the compilation of such business plans, estimates, and forecasts.

3.1.5 Each Trust Board retains overall responsibility and may exercise its delegated functions through the General Purpose Joint Committee where appropriate and has overall responsibility to ensure that adequate financial

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systems are in place to monitor and control financial performance to enable each Trust to fulfil its statutory responsibility to meet its annual revenue and capital targets.

- 3.1.6 The Chief Finance Officer has the authority to request Budget Holders to formally sign off annual budgets, as an acknowledgement of ownership.
- 3.1.7 The Chief Finance Officer has a responsibility to ensure that adequate training is delivered on an on-going basis to Budget Holders to help them manage budgets successfully.

3.2 BUDGETARY DELEGATION

- 3.2.1 The Chief Executive Officer may delegate the management of a budget to permit the performance of a defined range of activities, including pooled budget arrangements under Sections 65Z6 and 75 of the 2006 Act This delegation must be in writing and be accompanied by a clear definition of:
 - (a) the amount of the budget;
 - (b) the purpose(s) of each budget heading;
 - (c) individual and group responsibilities;
 - (d) authority to exercise virement;
 - (e) achievement of planned levels of service; and
 - (f) the provision of regular reports.
- 3.2.2 From time-to-time NHS England may issue guidance or instructions regarding additional approval processes for certain types of Trust expenditure. Where Foundation Trusts are required to comply, NHS England's approval process, as defined by its guidance, will override the authority to authorise as laid out in these Standing Financial Instructions, only for the specific type of expenditure concerned.
- 3.2.3 In cases where compliance with any additional approval regime by NHS England is voluntary, the Chief Executive Officer will determine the appropriate course of action for each Trust and will notify budget holders accordingly, with the support of the Chief Finance Officer.
- 3.2.4 Financial approval thresholds are set out in Section 8 of these Standing Financial Instructions.
- 3.2.5 Expenditure for which no provision has been made in an approved budget, and which is not subject to funding under delegated powers of virement shall only be incurred after proper authorisation - i.e. by the Chief

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Executive Officer, Chief Finance Officer or the Group Board as appropriate within delegated limits.

- 3.2.6 Unless approved by the Chief Executive Officer, after taking the advice of the Chief Finance Officer, budgets shall only be used for the purpose for which they were provided. Any budgeted funds not required for their designated purpose(s) revert to the immediate control of the Chief Finance Officer, subject to any authorised use of virement.
- 3.2.7 Non-recurring budgets are not to be used to finance recurring expenditure without the authority in writing of the Chief Finance Officer.

3.3 BUDGETARY CONTROL AND REPORTING

- 3.3.1 The Chief Finance Officer will devise and maintain systems of budgetary control. These will include:
- (a) regular financial reports to the Group Board in a form approved by the Group Board containing:
 - (i) performance measures required by NHS England;
 - (ii) income and expenditure to date;
 - (iii) the balance sheet;
 - (iv) cash position;
 - (v) capital projects spend and projected outturn against plan;
 - (vi) explanations of any material variances from plan;
 - (vii) details of any corrective action where necessary and the Chief Executive Officer's and/or Chief Finance Officer's view of whether such actions are sufficient to correct the situation;
 - (b) the issue of timely, accurate and comprehensible advice and financial reports to each budget holder, covering the areas for which they are responsible;
 - (c) investigation and reporting of variances from financial, workload and workforce budgets;
 - (d) monitoring of management action to correct variances; and
 - (e) arrangements for the authorisation of budget transfers.

- 3.3.2 Each Budget Holder is responsible for ensuring that:

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- (a) the amount provided in the approved budget is not used in whole or in part for any purpose other than that specifically authorised subject to the rules of virement;
- (b) no permanent staff are appointed without the approval of the Chief Executive Officer (who may delegate responsibility down to the Vacancy Control Panel and Directors) other than those provided for within the available resources and workforce establishment as approved by the Group Board;
- (c) ensuring all information requested by the Finance department for use in the compiling and monitoring of budgets is supplied promptly;
- (d) notifying the Finance department if it is believed that any budgetary funds are not required;
- (e) no non-recurring budgets are used to fund recurring expenditure.

3.3.3 Any budget virements must only be made in compliance with each Trust's virement policy. Detailed procedural guidance on virements is set out in the Finance Operating Manual.

3.3.4 The Chief Executive Officer, through the executive management team, is responsible for identifying and implementing cost improvements and income generation initiatives in accordance with the requirements of the Annual Business Plan and a balanced budget.

3.3.5 The Chief Finance Officer shall keep the Chief Executive Officer and the Group Board informed of the financial consequences of changes in policy, pay awards, and other events and trends affecting budgets and shall advise on the financial and economic aspects of future plans and projects.

3.4 MONITORING RETURNS

3.4.1 The Chief Executive Officer is responsible for ensuring that the appropriate monitoring forms are submitted to the requisite monitoring organisation.

4 ANNUAL ACCOUNTS AND REPORTS

4.1 PREPARATION OF RETURNS

4.1.1 The Chief Executive Officer, on behalf of each Trust in the Group, shall:

- (a) prepare financial returns in such a form as directed by NHS England, specifically in accordance with International Financial Reporting Standards (as applied in the NHS England Annual Reporting Manual and the Department of Health Group Accounting Manual as well as HM Treasury's Financial Reporting Manual (FReM); and

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(b) lay the annual report and accounts and any report of the external auditor on them, before Parliament and send a copy to NHS England.

4.1.2 The external auditor shall audit each Trust's annual report and accounts. Each Trust's audited annual accounts must be presented to the Council of Governors and the annual members' meeting of that Trust.

4.1.3 The Chief Executive Officer on behalf of each Trust in the Group will produce an annual report for each Trust, in accordance with the requirements of the Constitution and NHS England's guidance and shall present it at a meeting of the Council of Governors and the annual members' meeting of the relevant Trust.

4.1.4 Returns shall comply with the FT ARM 2025/26 (excluding non-executive directors from fair pay disclosures) and GAM 2025/26 (incorporating IFRS 17 for insurance contracts and social benefits accounting, with no external finance limit disclosures for trusts). Percentage changes in remuneration (salary/allowances and performance pay/bonuses) must be disclosed for the highest-paid director and average employee change.

5 BANK AND GOVERNMENT BANKING SERVICE (GBS) ACCOUNTS

5.1 GENERAL

5.1.1 The Chief Finance Officer is responsible for managing each Trust's banking arrangements and for advising each Trust on the provision of banking services and operation of accounts. This advice will take into account guidance/ directions issued from time to time by NHS England.

5.1.2 The Group Board shall approve the banking arrangements.

5.1.3 The Chief Finance Officer is responsible for:

- (a) bank accounts and Government Banking Service (GBS) accounts;
- (b) ensuring payments made from bank or GBS accounts do not exceed the amount credited to the account except where arrangements have been made;
- (c) reporting to the Group Board all arrangements made with each Trust's bankers for accounts to be overdrawn; and
- (d) ensuring cash is managed in line with conditions of each Trust's NHS Provider Licence and its investment and borrowing strategies.

BANKING PROCEDURES

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5.2.1 The Chief Finance Officer will prepare instructions on the operation of bank and GBS accounts, which must include:

- (a) the conditions under which each bank and GBS account is to be operated;
- (b) those authorised to sign cheques or other orders drawn on each Trust's accounts; and
- (c) those authorised to make deposits and investments on behalf of each Trust.

5.2.2 The Chief Finance Officer must advise each Trust's bankers in writing of the conditions under which each account will be operated. All funds shall be held in accounts in the name of each Trust. No officers other than the Chief Finance Officer shall open any bank account in the name of each Trust.

5.2.3 All cheques must be treated as controlled stationery, in the charge of a duly designated Officer controlling their issue.

5.3 REVIEW

5.3.1 The Chief Finance Officer will review the banking and investment arrangements of each Trust at regular intervals to ensure they reflect best practice and represent best value for money.

6 INCOME, FEES AND CHARGES AND SECURITY OF CASH, CHEQUES AND OTHER NEGOTIABLE INSTRUMENTS

6.1 INCOME SYSTEMS

6.1.1 The Chief Finance Officer is responsible for designing, maintaining, and ensuring compliance with systems for the proper recording, invoicing, collection, and coding of all monies due. These systems shall include income due under contracts or extra-contractual arrangements for the provision of Trust services. All Trust staff should follow the formal procedures laid down by the Finance department and by NHSE with regard to the recording, invoicing, collection, and coding of all monies due. Under no circumstances may invoices be raised on behalf of the Trust by anyone other than Finance.

6.1.2 The Chief Finance Officer is also responsible for the prompt banking of all monies received.

6.1.3 In no circumstances shall staff accept cash payments in excess of £5,000 on behalf of the Trust.

6.2 FEES AND CHARGES

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- 6.2.1 Each Trust shall refer to NHS England's Approved Costing Guidance in setting prices for contracts and services provided to other organisations, where applicable. All pricing should take into account the cost of delivering the service, including mitigation and contingency for risk, the cost of overheads and the need of each Trust to deliver a surplus.
- 6.2.2 The Chief Finance Officer is responsible for approving and regularly reviewing the level of all fees and charges other than those determined by NHS England or by statute. Independent professional advice on matters of valuation shall be taken, as necessary. Where sponsorship income (including items in kind such as subsidised goods or loans of equipment) is considered NHS England's guidance shall be followed.
- 6.2.3 All staff must inform the Chief Finance Officer promptly of money due arising from transactions which they initiate/deal with, including all contracts, leases, tenancy agreements, private patient undertakings, and other transactions.

6.3 DEBT RECOVERY

- 6.3.1 The Chief Finance Officer is responsible for the appropriate recovery action on all outstanding debts.
- 6.3.2 Any potential write off of bad debt shall be processed through the losses and special payments process and shall be authorised by the Chief Finance Officer or direct Finance reports.
- 6.3.3 Income not received should be dealt with in accordance with losses procedures. This includes the use of external debt recovery agents.
- 6.3.4 Should any staff detect that an overpayment has been made they should report it immediately to the Chief Finance Officer and direct finance reports in order that recovery procedures can be initiated. Where appropriate, each Trust's Local Counter Fraud Specialist should be consulted.

6.4 SECURITY OF CASH, PETTY CASH, CHEQUES AND OTHER NEGOTIABLE INSTRUMENTS

- 6.4.1 The Chief Finance Officer is responsible for:
- (a) approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable;
 - (b) ordering and securely controlling any such stationery;
 - (c) the provision of adequate facilities and systems for staff whose duties include collecting and holding cash or cheques, including the

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provision of safes or lockable cash boxes, the procedures for keys, and for coin operated machines; and

(d) prescribing systems and procedures for handling cash and negotiable securities on behalf of each Trust.

6.4.2 Staff shall be informed in writing on appointment, of their responsibilities and duties for the collection, handling or distribution of cash, cheques, etc. Any staff whose duty it is to collect or hold cash may be audited at the Chief Finance Officer's discretion to ensure the appropriate controls are in place for the safe keeping of the cash.

6.4.3 During the absence (e.g. on holiday) of the holder of a safe or cash-box key, the member of staff who acts in their place shall be subject to the same controls as the normal holder of the key. There shall be written discharge for the safe and/or cash-box contents on the transfer of responsibilities and the discharge document must be retained for inspection.

6.4.4 All cash, cheques and other forms of payment received by any other staff shall be passed immediately to the holder of a safe or cash-box key or to the cashier, from whom a signed receipt shall be obtained. No member of staff should keep Trust cash, cheques, or other forms of payment, for whatever purpose, on Trust premises unless the Chief Finance Officer is aware of the existence of such arrangements and is satisfied as to the systems and processes for the probity of such arrangements.

6.4.5 Official money shall not under any circumstances be used for private use or the encashment of private cheques, or I.O.U.s.

6.4.6 Any loss or shortfall of cash, cheques, or other cash equivalents, however occasioned, shall be reported immediately to the Finance Department in accordance with the agreed procedure for reporting losses.

6.4.7 All cheques, postal orders, cash etc., shall be banked intact. Disbursements shall not be made from cash received, except under arrangements approved by the Chief Finance Officer.

6.4.8 The holders of safe keys shall not accept unofficial funds for depositing in their safes unless such deposits are in special sealed envelopes or locked containers. It shall be made clear to the depositors that each Trust is not to be held liable for any loss, and written indemnities must be obtained from the organisation or individuals absolving each Trust from responsibility for any loss.

6.4.9 All cheques must be dispatched to Financial Accounts. A record of all cheques received must be maintained at point of receipt before being dispatched to Financial Accounts. A list of these cheque details is to be sent to the Financial Accountant.

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- 6.4.10 The Chief Finance Officer may, if appropriate and at his/her discretion, allow Petty Cash floats to be kept. All floats must be operated within each Trust's petty cash policy. Failure to adhere to this policy will be regarded as a breach of these SFIs. Each float must have a designated float holder, and that float holder will be responsible for the security of the cash, the maintenance of the petty cash records and to appropriately top up the float. The Chief Finance Officer retains the right to close floats if he/she has concerns about the appropriateness of their operation.
- 6.4.11 Each Trust will hold credit cards in order to support the procurement process in allowing more flexibility to purchase goods but limited to exceptional circumstances. Standard procurement processes should be followed and suppliers set up through the usual procurement system to ensure good procurement governance. If a Trust credit card is used, then the relevant Trust's procurement processes will still need to be followed but the credit cards will enable quicker payments to be made.
- 6.4.12 Access to each Trust credit card will be limited to the Finance Department and Procurement team. The card whilst not in use will be kept in a secure safe. Local procedures need to be in place to ensure the security of the credit card.

7 TERMS OF SERVICE, ALLOWANCES AND PAYMENT OF MEMBERS OF THE BOARD AND EXECUTIVE COMMITTEE AND EMPLOYEES

7.1 REMUNERATION AND TERMS OF SERVICE

- 7.1.1 In accordance with the Constitutions of each Trust, the Board shall establish a Nomination and Remuneration Committee, to consider remuneration and related matters as set out in its terms of reference. The terms of reference shall include the posts that fall within its area of responsibility, its composition, and the arrangements for reporting.
- 7.1.2 Except where Agenda for Change rules apply, the Group Board will approve proposals presented by the Chief Executive Officer for the setting of remuneration and conditions of service for those staff not covered by the Remuneration Committee.

7.2 FUNDED ESTABLISHMENT

- 7.2.1 The workforce plans incorporated within the annual budget will form the funded establishment.
- 7.2.2 The funded establishment of any department may not be varied without the approval of the Chief Finance Officer, directly or through adherence to relevant finance procedures.

7.3 STAFF APPOINTMENTS

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- 7.3.1 No Executive Director or staff may engage, re-engage, or re-grade employees, either on a permanent or temporary nature, or hire agency staff, or agree to changes in any aspect of remuneration:
- (a) unless authorised to do so by the Chief Executive Officer as detailed in the Scheme of Delegation; and
 - (b) within the limit of their approved budget and funded establishment.
- 7.3.2 The Group Board will approve procedures presented by the Chief Executive Officer for the determination of commencing pay rates, condition of service, etc., for staff.
- 7.3.3 Managers will ensure that all new employees and bank workers have produced the relevant documentation and completed the relevant signing on procedure with People and Organisational Development prior to starting.
- 7.3.4 A termination of employment form and such other documents as may be required must be submitted to the Workforce Service in the prescribed form immediately upon the effective date of an employee's resignation, retirement or termination being known. Where an employee fails to report for duty in circumstances that suggests that the employee has left without notice the Workforce Service shall be informed immediately.
- 7.3.5 The Workforce Service shall be notified immediately upon the effective date of any change in state of employment or personal circumstances of an employee being known.
- 7.3.6 All time-keeping records, pay sheets, and other pay records and notifications shall be in a form approved by the Group Executive Team and shall be certified and submitted in accordance with agreed instructions.
- 7.3.7 The Chief Finance Officer shall devise and maintain a system of establishment controls which shall include regular reports to each manager on the staff in post in their departments.

7.4 PROCESSING PAYROLL

- 7.4.1 The Chief People Officer shall ensure, via the contractual arrangements, that arrangements are in place for:
- (a) specifying timetables for submission of properly authorised time records and other notifications;
 - (b) the final determination of pay and allowances;
 - (c) making payment on agreed dates;

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- (d) agreeing method of payment; and
- (e) maintaining and enforcing a Trust under and overpayment policy and seeking to recover any overpayments in line with that policy

7.4.2 The Chief People Officer will monitor performance against the contract of the following:

- (a) verification and documentation of data;
- (b) the timetable for receipt and preparation of payroll data and the payment of employees and allowances;
- (c) maintenance of subsidiary records for superannuation, income tax, social security, and other authorised deductions from pay;
- (d) security and confidentiality of payroll information;
- (e) checks to be applied to completed payroll before and after payment;
- (f) authority to release payroll data under the provisions of the data protection legislation;

7.4.3 The Chief Finance Officer will monitor performance against the contract of the following:

- (a) methods of payment available to various categories of employee and officers;
- (b) procedures for payment by cheque, bank credit, or cash to staff and Officers;
- (c) procedures for the recall of cheques and bank credits;
- (d) pay advances and their recovery;
- (e) maintenance of regular and independent reconciliation of pay control accounts;
- (f) separation of duties of preparing records and handling cash;
- (g) a system to ensure the recovery from leavers of sums of money and property due by them to each Trust;
- (h) A system to record and report specific employee costs as required by guidance for example “high-cost off-payroll” employee costs; and
- (i) Maintenance of an up to date authorised signatory list for pay.

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- 7.4.4 Appropriately nominated managers within each Trust have delegated responsibility for:
- (a) submitting time records, and other notifications in accordance with agreed timetables;
 - (b) completing time records and other notifications in accordance with the Chief Finance Officer's instructions and in the form prescribed by the Chief Finance Officer;
 - (c) ensuring all staff absences are appropriately authorised. In the event of unauthorised absence, the line manager is responsible for notifying payroll services to ensure payment for unauthorised absence is prevented or recovered;
 - (d) submitting termination forms in the prescribed form immediately upon knowing the effective date of member of staff's resignation, termination, or retirement. Where a member of staff fails to report for duty or to fulfil obligations in circumstances that suggest they have left without notice, the Chief Finance Officer must be informed immediately. Failure to do this may end up in overpayments of salary by the Trust; and
 - (e) submitting all employee-related updates promptly to avoid over or under payment and to ensure that staff records are accurate and up to date for their area of responsibility. These requirements include but are not limited to new starters, change forms and leavers.

7.4.5 Regardless of the arrangements for providing the payroll service, the Chief Finance Officer shall ensure that the chosen method is supported by appropriate (contracted) terms and conditions, adequate internal controls and audit review procedures, and that suitable arrangements and change forms are made available for the collection of payroll deductions and payment of these to appropriate bodies. The Chief Finance Officer shall obtain independent assurance over the outsourced payroll provider's control environment at least annually.

7.4.6 Competitive tenders will be sought at least every five years for the Trust's payroll services. The results of the tendering exercise shall be reported to the Group Board.

7.5 CONTRACTS OF EMPLOYMENT

- 7.5.1 The Board shall delegate responsibility to the Chief People Officer for:
- (a) ensuring that all employees are issued with a Contract of Employment in a form approved by the Group Board and which complies with employment legislation; and

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- (b) dealing with variations to, or termination of, contracts of employment (except those cases subject to formal HR processes. Refer to the relevant policy for delegated responsibility) upon the advice of the Chief Finance Officer on affordability.

8 FINANCIAL APPROVAL THRESHOLDS AND NON-PAY EXPENDITURE

8.1 STATUS OF FINANCIAL THRESHOLDS

- 8.1.1 The financial approval thresholds set out in this section define the maximum levels of financial authority delegated by each Trust Board through the Scheme of Reservation and Delegation.
- 8.1.2 No officer or committee may approve expenditure, capital investment, contractual commitment, write-off or other financial transaction above the limits specified in this section.
- 8.1.3 These thresholds may be amended only by formal approval of each Trust Board.

8.2 INVESTMENT

- 8.2.1 Outline Business Cases and Full Business Cases for investment above £5,000,000 shall require approval by the General Purpose Joint Committee acting as the Group Board, subject to NHS England approval where applicable.
- 8.2.2 Investment between £3,500,000 and £5,000,000 may be approved by the Chief Executive Officer, subject to NHS England approval where applicable.
- 8.2.3 Investment between £2,000,000 and £3,500,000 may be approved by the Chief Finance Officer or Chief Delivery Officer, subject to NHS England approval where applicable.
- 8.2.4 Investment up to £2,000,000 may be approved by the relevant Executive Managing Director.
- 8.2.5 Business cases for investment fully backed by NHS England income will be subject to the following higher approval limits:
 - a) Above £20,000,000 – approval by the General Purpose Joint Committee
 - b) Between £15,000,000 and £20,000,000 – approval by the Chief Executive Officer
 - c) Between £10,000,000 and £15,000,000 – approval by the Chief Finance Officer or Chief Delivery Officer

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d) Up to £10,000,000 – approval by the relevant Executive Managing Director

8.2.6 Where the approved value of a capital scheme is forecast to exceed the authorised amount, revised approval shall be obtained at the appropriate threshold.

8.3 CAPITAL PLAN

8.3.1 The General Purpose Joint Committee acting as the Group Board is responsible for approving the Capital Plan at the start of the financial year.

8.3.2 The Trust Hospital Management Group has delegated authority to reallocate spend across capital schemes within the Group Board approved total plan value.

8.3.3 For specific NHS England funded schemes identified and agreed by the Group Board at the start of the year, authority is delegated to the Chief Finance Officer or the Chief Delivery Officer to authorise commitments in excess of the Group Board approved plan insofar as those commitments are fully funded by NHS England.

8.3.4 For capital spend that is backed by in year NHS England Public Dividend Capital funding, authority to increase the capital plan is delegated as follows:

(a) Between £15,000,000 and £20,000,000 – approval by the Chief Executive Officer

(b) Between £10,000,000 and £15,000,000 – approval by the Chief Finance Officer or Chief Delivery Officer

(c) Up to £10,000,000 – approval by the relevant Executive Managing Director

8.4 EXPENDITURE AND CONTRACTUAL COMMITMENTS

8.4.1 Expenditure or contractual commitments above £5,000,000 shall require approval by the General Purpose Joint Committee acting as the Group Board.

8.4.2 Expenditure or contractual commitments between £3,500,000 and £5,000,000 may be approved by the Chief Executive Officer.

8.4.3 Expenditure or contractual commitments between £2,000,000 and £3,500,000 may be approved by the Chief Finance Officer or Chief Delivery Officer.

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- 8.4.4 Expenditure or contractual commitments up to £2,000,000 may be approved by the relevant Executive Managing Director.
- 8.4.5 Where a contract has been explicitly included within a previously approved Full Business Case, further approval is not required and the Full Business Case approval will be sufficient to evidence appropriate authority to proceed.
- 8.4.6 All commitments must be within approved budgets unless separately authorised by the appropriate approving body.
- 8.4.7 Approval for individual payments between members of the Norfolk and Waveney University Hospitals Group, where supported by a formal agreement or primary records (e.g. signed NHS contract, ICB income schedules, etc.) will be delegated as follows:
- (a) Above £40,000,000 – Chief Executive Officer or Chief Finance Officer or Chief Delivery Officer
 - (b) Between £25,000,000 and £40,000,000 – relevant Director of Finance or relevant Executive Managing Director
 - (c) Up to £25,000,000 – relevant Director of Finance or formally named delegate

8.5 LOSSES AND SPECIAL PAYMENTS

- 8.5.1 Proposals for write-off of losses or making of special payments above the delegated limits to the Chief Executive Officer and Chief Finance Officer shall require approval by the General Purpose Joint Committee acting as the Group Board.
- 8.5.2 Delegated limits for losses and special payments shall comply with HM Treasury and NHS England requirements and shall be those approved by each Trust Board through the Scheme of Reservation and Delegation. The Finance Operating Manual may reproduce those limits for operational use, but shall not amend, override, or extend them.
- 8.5.3 All losses and special payments shall be reported to the Audit Committees in Common in accordance with applicable guidance.

8.6 VIREMENTS AND BUDGET TRANSFERS

- 8.6.1 The Chief Finance Officer may approve budget virements within the overall revenue limit approved by the Group Board.
- 8.6.2 Detailed virement procedures and sub-delegated limits shall be set out in the Finance Operating Manual.

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8.6.3 Virements that materially alter service delivery, strategic intent or risk exposure shall be reported to the Group Board.

8.7 TRANSPARENCY AND REPORTING OF SIGNIFICANT APPROVALS

8.7.1 All approvals of investment, expenditure or contractual commitments above £2,000,000 shall be reported to the next meeting of the General Purpose Joint Committee acting as the Group Board.

8.7.2 Such reporting shall be for transparency and oversight and shall not imply retrospective approval where authority has been exercised in accordance with these Standing Financial Instructions.

8.8 AGGREGATION AND ANTI-AVOIDANCE

8.8.1 Financial limits apply to the total value of a scheme, contract or transaction.

8.8.2 Artificial splitting, phased structuring, or other arrangements designed to avoid approval thresholds are prohibited.

8.9 FUNDS HELD ON TRUST

8.9.1 Approval of expenditure on Charitable Funds above £250,000 (for Norfolk and Norwich University Hospitals NHS Foundation Trust) and above £125,000 (for Queen Elizabeth Hospital King's Lynn NHS Foundation Trust and James Paget University Hospitals NHS Foundation Trust) shall require approval by the respective Trust Board. Approval of expenditure below these levels will require the approval of the respective Charitable Funds Committee, unless otherwise delegated by the Committee.

8.10 RELATIONSHIP TO FINANCE OPERATING MANUAL

8.10.1 The Chief Finance Officer shall issue and maintain a Finance Operating Manual setting out detailed financial procedures, documentation standards, sub-delegated authority levels and operational controls.

8.10.2 The Finance Operating Manual:

- (a) must operate within the authority and limits established by these Standing Financial Instructions and the Scheme of Reservation and Delegation;
- (b) may be amended by the Chief Finance Officer with the approval of the Chief Executive Officer;
- (c) shall not amend, override or extend any financial threshold or reserved authority established by the Trust Boards.

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- 8.10.3 Material amendments to the Finance Operating Manual shall be reported to the Audit Committees in Common for scrutiny.

9 PROCUREMENT OF GOODS AND SERVICES

9.1 GENERAL PRINCIPLES

9.1.1 Procurement of goods and services shall be conducted in accordance with:

- (a) Applicable public procurement legislation;
- (b) NHS England guidance;
- (c) HM Treasury Managing Public Money;
- (d) These Standing Financial Instructions; and
- (e) The Finance Operating Manual.

9.2 DELEGATED AUTHORITY

9.2.1 Procurement decisions must be exercised within the financial approval thresholds set out in Section 8.

9.2.2 No procurement commitment may be entered into without confirmation of available budget.

9.3 WAIVERS

9.3.1 Waivers of competitive tendering procedures may only be granted in accordance with criteria defined in the Finance Operating Manual.

9.3.2 All waivers shall be recorded and reported to the Audit Committees in Common.

10 TENDERING FOR THE SUPPLY OF GOODS AND SERVICES

10.1 PERSONS AUTHORISED TO SIGN COMMERCIAL OFFERS AND CONTRACTS

10.1.1 The Chief Executive Officer shall nominate Officers with power to make commercial offers and negotiate for the provision of services with commissioners.

10.1.2 Signing of commercial offers and contracts (legally binding commitments) are limited to the persons with the authority to sign for the Trust.

10.2 REQUIREMENT TO MAKE COMMERCIAL OFFERS

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10.2.1 The Chief Executive Officer, as the accounting officer, is responsible for ensuring that each Trust makes commercial offers which are duly approved and signed by an authorised signatory prior to submission to the commissioner. In discharging this responsibility, the Chief Executive Officer should take into account:

- (a) the needs of the commissioner and service users upon whose behalf the service is being provided;
- (b) the scope of work for the services to be delivered expressed through a clear service specification;
- (c) the relevant NICE guidelines and national service framework (if any);
- (d) the standards of service quality expected;
- (e) the relevant Trust policies for the delivery of services
- (f) any risks to the Trust arising from the contract or delivery of services
- (g) the cost of mobilising and providing the service and the pricing of such services to the commissioner including any risk mitigation costs and contingency
- (h) the ability of contracts to return a surplus to the Trust;
- (i) the terms and conditions under which the service will be delivered.

10.2.2 Pricing for goods and services must be approved by the Chief Finance Officer prior to the submission of a commercial offer.

10.2.3 All commercial offers must include:

- (a) A clear scope of work, preferably the service specification;
- (b) The pricing for the service, identifying where VAT is applicable;
- (c) The terms and conditions under which the service will be offered;
- (d) Clauses to protect the intellectual property and commercial confidentiality of information; and
- (e) Limit for the validity period of the offer.

10.3 REQUIREMENT TO ENTER INTO CONTRACTS FOR ALL GOODS AND SERVICES

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- 10.3.1 The Chief Executive Officer is responsible for ensuring the Trust enters into suitable legal contracts with service commissioners for the provision of services.
- 10.3.2 The Chief Executive Officer will ensure that all contracts are reviewed on a periodic basis and no less than every three years.
- 10.3.3 With the exception of national variations mandated by NHS England, all contract change requests will be treated as if new contracts including the requirement to make a commercial offer, approval of pricing in accordance with 6.2 and, power to sign commercial offers and contracts.
- 10.3.4 The Chief Executive Officer will need to ensure that regular reports are provided to the Group Board detailing actual and forecast income from contracts for NHS healthcare and delegated social service functions.

10.4 PROVISION OF GOODS AND SERVICES TO INDIVIDUALS

- 10.4.1 The Chief Executive Officer will ensure that each Trust publishes and makes available the standard terms and conditions for the provision of services to individuals. Such terms and conditions to cover as a minimum both Private Patients and Overseas Visitors.

10.5 MONITORING AND ASSURANCE

- 10.5.1 The Chief Finance Officer shall ensure appropriate systems are in place to monitor compliance with procurement and tendering requirements.
- 10.5.2 Significant breaches shall be reported to the Audit Committees in Common.

11 INTELLECTUAL PROPERTY

11.1 OWNERSHIP

- 11.1.1 Intellectual property created by employees in the course of their employment shall belong to the relevant Trust, unless otherwise agreed in writing.

11.2 COMMERCIAL EXPLOITATION

- 11.2.1 Commercial exploitation of intellectual property shall be approved in accordance with the financial thresholds set out in Section 8 and any applicable Scheme of Reservation and Delegation.

11.3 PROTECTION

- 11.3.1 The Chief Executive Officer shall ensure appropriate arrangements are in place to identify, protect and manage intellectual property assets.

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11.4 COMPLIANCE

- 11.4.1 All intellectual property arrangements shall comply with NHS England guidance and relevant legislation.

12 CAPITAL INVESTMENT, FIXED ASSET REGISTERS AND SECURITY OF ASSETS

12.1 CAPITAL INVESTMENT

12.1.1 The Chief Executive Officer shall:

- (a) Ensure that all capital investment proposals are supported by an appropriate business case in accordance with NHS England guidance;
- (b) Ensure that all capital schemes are properly appraised, managed and monitored;
- (c) ensure that the Chief Finance Officer certifies the financial implications of each business case;
- (d) ensure that no capital investment is undertaken without confirmation of affordability within the approved capital programme and compliance with NHS England capital regime requirements; and
- (e) Approval thresholds are set out in Section 8.

12.2 ASSET REGISTERS

12.2.1 The Chief Finance Officer shall maintain fixed asset registers in accordance with the DHSC Group Accounting Manual and applicable accounting standards.

12.2.2 Arrangements shall be in place for:

- (a) recording additions, disposals and transfers;
- (b) annual physical verification of assets;
- (c) reconciliation between the asset register and the general ledger; and
- (d) depreciation and valuation in accordance with approved accounting policies.

12.3 SECURITY OF ASSETS

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- 12.3.1 The Chief Executive Officer shall ensure appropriate systems are in place for safeguarding Trust assets, including physical security, accountability and periodic verification.
- 12.3.2 The Chief Finance Officer shall approve procedures for asset control.
- 12.3.3 All discrepancies or suspected losses shall be reported in accordance with Section 15.

13 STORES AND RECEIPT OF GOODS

- 13.1 The Chief Finance Officer shall ensure appropriate systems are in place for the control of stores and stock, including:
 - (a) proper recording of receipts, issues and balances;
 - (b) periodic stocktaking;
 - (c) identification and disposal of obsolete or surplus stock; and
 - (d) safeguarding of pharmaceutical and other controlled items.
- 13.2 Detailed procedures shall be set out in the Finance Operating Manual.

14 DISPOSALS AND CONDEMNATIONS, LOSSES, AND SPECIAL PAYMENTS

14.1 DISPOSALS AND CONDEMNATIONS OF NON-FIXED ASSETS

- 14.1.1 The Chief Finance Officer shall issue procedures for the disposal and condemnation of assets.
- 14.1.2 All disposals must be properly authorised, recorded and supported by appropriate documentation.
- 14.1.3 Disposals must not materially prejudice the Trust's ability to discharge its statutory obligations.

14.2 LOSSES AND SPECIAL PAYMENTS

- 14.2.1 The Chief Finance Officer shall maintain a Losses and Special Payments Register and issue procedural instructions for the recording and reporting of losses.
- 14.2.2 All suspected losses, fraud or irregularities shall be reported immediately in accordance with counter fraud procedures.
- 14.2.3 Losses and special payments shall comply with HM Treasury Managing Public Money and NHS England guidance.
- 14.2.4 Significant losses shall be reported to the Audit Committees in Common.

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- 14.2.5 No loss or special payment exceeding the delegated financial thresholds set out in Section 8 shall be approved without prior approval of the General Purpose Joint Committee acting as the Group Board.

15 INFORMATION TECHNOLOGY AND DIGITAL FINANCIAL CONTROL

- 15.1 The Chief Digital and Information Officer shall ensure that appropriate controls are in place to safeguard the confidentiality, integrity and availability of financial and other corporate systems, in compliance with applicable legislation including the Data Protection Act 2018 and UK GDPR.
- 15.2 The Chief Finance Officer shall ensure that financial systems are developed, implemented and maintained in a controlled manner, with appropriate testing, segregation of duties, audit trails and business continuity arrangements.
- 15.3 Where financial systems or services are provided by third parties, contracts shall clearly define responsibilities for data security, integrity and audit access. The Chief Finance Officer shall obtain periodic assurance that adequate controls are operating.
- 15.4 The Chief Finance Officer shall ensure that financial risks arising from the use of information technology are identified and managed within the Trust's risk management framework.
- 15.5 Digital controls shall address emerging risks, including AI governance and intangible asset classification per GAM 2025/26. Annual testing of business continuity shall include cyber scenarios, with group-wide sharing of third-party assurances under the Provider Collaboration Agreement.

16 PATIENTS' PROPERTY

- 16.1 Each Trust shall provide arrangements for the safe custody of money and other personal property handed in by patients or otherwise coming into its possession.
- 16.2 The Chief Executive Officer shall ensure that patients or their representatives are informed that the Trust does not accept liability for property not formally handed in for safekeeping.
- 16.3 The Chief Finance Officer shall issue written procedures governing the collection, custody, recording and disposal of patients' property, including property of deceased patients.
- 16.4 Where required by legislation, probate or appropriate indemnities shall be obtained prior to release of property.
- 16.5 Separate bank accounts for patients' monies shall be operated where required by Department of Health and Social Care guidance.

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17 ACCEPTANCE OF GIFTS BY STAFF (INCLUDING CASH)

- 17.1 All staff and Board members must comply with the Trust's Gifts, Hospitality and Interests policy and applicable legislation including the Bribery Act 2010.
- 17.2 Declarations of interests and acceptance of gifts shall be managed in accordance with NHS England guidance.

18 RETENTION OF DOCUMENTS

- 18.1 The Chief Executive Officer shall maintain a policy for the retention, preservation and destruction of records in accordance with national and legal requirements.
- 18.2 Records shall be capable of retrieval by authorised persons and destroyed only in accordance with the approved policy.

19 RISK MANAGEMENT AND INSURANCE

19.1 GENERAL PRICIPLES

- 19.1 The Chief Executive Officer shall ensure that each Trust maintains an effective risk management framework approved and monitored by the Group Board.

19.1.1 The risk management framework shall include:

- (a) identification and assessment of significant risks;
- (b) maintenance of a risk register and assurance framework;
- (c) effective systems of internal control;
- (d) arrangements for monitoring and reporting significant risks to the Group Board;
- (e) contingency arrangements to mitigate the impact of adverse events; and
- (f) integration of climate-related risks per TCFD (final implementation 2025/26).

19.1.2 The Group Board shall determine participation in risk pooling schemes administered by NHS Resolution or alternative arrangements.

19.1.3 The Chief Finance Officer shall ensure that appropriate procedures are in place for the management of claims and insurance arrangements.

19.1.4 The effectiveness of risk management arrangements shall support the Annual Governance Statement within the Annual Report and Accounts.

19.2 ASSURANCE AND KPIs

19.2.1 The Chief Finance Officer shall monitor key performance indicators (KPIs) for financial sustainability, including variance to breakeven targets (per

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Oversight Framework 2025/26) and carbon reduction metrics. Deficits shall trigger escalation to the Group Board, limiting segmentation to no better than 3 under the Oversight Framework.

20 SUSTAINABILITY AND NET ZERO FINANCIAL CONTROLS

20.1 GENERAL PRINCIPLES

20.1.1 All financial decisions shall incorporate sustainability considerations to support the NHS commitment to net zero emissions by 2040, as outlined in the Delivering a Net Zero NHS strategy (updated September 2025). This includes aligning with Greener Government Commitments (GGCs) and Task Force on Climate-related Financial Disclosures (TCFD) requirements under the FT ARM 2025/26.

20.2 INTEGRATION INTO CAPITAL AND PROCUREMENT

20.2.1 Capital investment proposals (Section 12) must include climate risk assessments and net zero affordability certification, prioritizing low-carbon solutions such as renewable energy and energy-efficient infrastructure. Procurement (Sections 9-10) shall comply with the Procurement Act 2023 (effective February 2024, with NHS terms updated February 2025), incorporating green criteria (e.g., carbon footprint evaluations) and favouring suppliers aligned with the NHS Net Zero Supplier Roadmap.

20.3 FLEET AND TRANSPORT

20.3.1 Fleet management shall transition to zero-emission vehicles (ZEVs) in line with targets: all new non-ambulance vehicles ZEVs from 2027, and ambulances from 2030. Budgets and virements (Section 8.5) must prioritize funding for EV infrastructure, with group-wide sharing encouraged under the Provider Collaboration Agreement.

20.4 MONITORING AND REPORTING

20.4.1 The Chief Finance Officer shall ensure annual reporting of carbon emissions and sustainability metrics in the Annual Report and Accounts, supporting the Annual Governance Statement. Significant sustainability risks shall be integrated into the risk register (Section 19). Group Board oversight shall include quarterly reviews of progress against net zero targets, with escalations to Audit Committees in Common for non-compliance.

20.5 GROUP COLLABORATION

20.5.1 Inter-Trust initiatives (e.g., shared renewable energy projects) shall be facilitated through pooled funds under s65Z6 NHA 2006, with transparency reporting to the General Purpose Joint Committee.

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SCHEME OF RESERVATION AND DELEGATION

(1) NORFOLK AND NORWICH UNIVERSITY HOSPITALS NHS FOUNDATION TRUST, (2) THE JAMES PAGET UNIVERSITY HOSPITALS NHS FOUNDATION TRUST AND (3) THE QUEEN ELIZABETH HOSPITAL KING’S LYNN NHS FOUNDATION TRUST (the Trusts) operating within the NORFOLK AND WAVENEY UNIVERSITY HOSPITALS GROUP (the Group)

This Scheme of Reservation and Delegation (**Scheme**) is adopted by each of the Boards of Norfolk and Norwich University Hospitals NHS Foundation Trust, the James Paget University Hospitals NHS Foundation Trust and the Queen Elizabeth Hospital Kings Lynn NHS Foundation Trust (**Trust Boards**) to set out those decisions which are reserved for the Trust Board and those which may be delegated to the general purpose joint committee established by the Trusts under sections 65Z5 and 65Z6 of the National Health Service Act 2006 (“**2006 Act**”) pursuant to a Provider Collaboration Agreement dated **[insert date of PCA]** (“**PCA**”).

The Scheme is supplemental to, and must be read alongside, the Constitution of each Trust, the PCA, the Standing Orders for the Trust Board (**SO**) and standing financial instructions (**SFI**). Nothing in the Scheme permits the delegation or joint exercise of any statutory function that the Trust is prohibited from delegating.

Nothing in this Scheme affects any existing delegation from the Trust Board to its committees or to officers under the Trust’s Standing Orders and Standing Financial Instructions, save that where a function is delegated to the Group Board that function will, to the extent of the delegation, no longer be exercisable by a Trust Board committee or officer unless specifically authorised by the Group Board or by the Trust Board acting under a reserved power.

This Scheme takes effect on the date of approval by the Trust Board and will be reviewed annually.

Matters Reserved to the Trust Board
The Trust Board may determine any matter, for which it has delegated or statutory authority, it wishes in full session within its statutory powers.
Approval of the annual accounts, auditor’s report and annual report

Approval of amendments to the Constitution
Compliance with any capital expenditure limit imposed by NHS England
Approval of proposals to increase by 5 per cent or more the proportion of total income derived from non-NHS activity
Decisions to borrow money, invest money, form or acquire bodies corporate or give financial assistance
Decision to undertake a statutory transaction or a significant transaction (as defined in the Constitution)
Discharging the duty to ensure public and patient membership is representative
All functions relating to Trust Special Administration
Establishment of terms of reference, composition and reporting arrangements of the Audit Committee and Nominations and Remuneration Committee
Approval of arrangements relating to the discharge of the Trust's responsibilities as a corporate trustee for funds held on trust, such as charitable funds including the requirements of sections 149 and 152 of the Charities Act 2011
Participation in domestic homicide reviews under the Domestic Violence, Crime and Victims Act 2004, Section 9(2), (3)
Decisions relating to collaboration agreements under section 1 of the Policing and Crime Act 2017
Authorisations under Part 3 of the Investigatory Powers Act 2016
Supply of nationality documents under section 20A of the Immigration Act 1999
Duties under the Network and Information Systems Regulations 2018

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Notifications under s213B of the Housing Act 1996

Preparing and publishing objectives in accordance with reg 5(1) of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017

Gender pay gap reporting under Schedule 1(2) of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017

Duties in relation to the supervision, management and use of controlled drugs under the Controlled Drugs (Supervision of Management and Use) Regulations 2013

Duties under section 23 of the Children and Families Act 2014

All functions under the Mental Health Act 1983, Mental Capacity Act 2005, Mental Capacity (Deprivation of Liberty: Standard Authorisations, Assessments and Ordinary Residence) Regulations 2008/1858 and the Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008/1184

Matters Delegated to the Group Board

The Group Board is a joint committee and may determine any matter, for which it has delegated authority, it wishes in full session within its delegation.

The Group Board is authorised to make binding decisions on Norfolk and Norwich University Hospitals NHS Foundation Trust, the James Paget University Hospitals NHS Foundation Trust and the Queen Elizabeth Hospital Kings Lynn NHS Foundation Trust.

Appoint and dissolve committees that are directly accountable to the Group Board.

Establish terms of reference and reporting arrangements of all committees that are established by the Group Board.

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Approval of a Group Governance Manual incorporating Standing Orders, a schedule of matters reserved to the Group Board and Standing Financial Instructions for the regulation of its proceedings and business.

Suspend, vary or amend any aspect of the Group Governance Manual.

Ratify any urgent decisions taken by the Chair and Chief Executive Officer in public session.

Approve a scheme of delegation of powers from the Group Board to its committees.

Require and receive the declaration of Group Board members' interests that may conflict with those of the Trusts and determining the extent to which that member may remain involved with the matter under consideration.

Adopt the organisation structures, processes and procedures to facilitate the discharge of business by the Trusts and to agree modifications thereto.

Receive reports from committees including those that the Trusts are required to establish and to take appropriate action on.

Confirm the recommendations of the Group Board committees where the committees do not have executive powers.

Approve arrangements relating to the discharge of the Trusts' responsibilities as a bailer for patients' property.

Ratify or otherwise instances of failure to comply with Standing Orders brought to the Chief Executive Officer's attention.

Discipline members of the Group Board or employees who are in breach of statutory requirements or Standing Orders.

Authorise the use of the Trust Seal.

Approve the appointment and dismissal of both the internal auditors.

Entry into arrangements for the joint exercise of any of the Trust's functions with another person or body

Making, operating and varying joint working and delegation arrangements with other relevant bodies, local authorities or combined authorities and the establishment of joint committees or pooled funds

Define the strategic aims and objectives of the Trusts

Approving strategies

Approve Outline and Full Business Cases for Capital Investment.

Approve the annual plan and operating budget.

Ratify proposals for acquisition, disposal or change of use of land and / or buildings.

Approve the opening of bank accounts and banking arrangements.

Making accommodation or further services available to private patients, provided such activity does not significantly interfere with NHS functions

Acquisition and disposal of property, entering into contracts, acceptance of gifts and employment of staff

Approve proposals in individual cases for the write-off of losses or making of special payments above the limits of delegation to the Chief Executive Officer and Chief Finance Officer (for losses and special payments) previously approved by the Group Board.

Approve proposals for action on litigation against or on behalf of the Trust(s)

Review use of NHS Resolution Clinical Negligence Scheme for Trusts and risk pooling schemes (Liabilities to Third Parties Scheme / Property Expenses Scheme).

Approval of any change in ownership interest (including any new ownership interest) in a third-party organisation (including associates, joint ventures, and subsidiaries).

Approval of the introduction or discontinuance of any significant activity or operation.
Approval of policies not covered elsewhere.
Approve the Fit and Proper Person Test Framework.
Approve the disciplinary procedure for officers of the Trust(s).
Approve the procedures for the management of conflicts of interest, gifts, hospitality and sponsorship.
Preparation and submission of joint applications for statutory transactions and associated steps, provided the Trust Board and Council of Governors have given the requisite approvals

Approved by resolution of the Board of Directors of each of Norfolk and Norwich University Hospitals NHS Foundation Trust, the James Paget University Hospitals NHS Foundation Trust and the Queen Elizabeth Hospital Kings Lynn NHS Foundation Trust on [DATE].

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Date

2026

**James Paget University Hospitals NHS Foundation Trust and Norfolk and Norwich
University Hospitals NHS Foundation Trust and The Queen Elizabeth Hospital King's Lynn
NHS Foundation Trust**

**Variation to the Provider Collaboration Agreement
for the purpose of establishing Norfolk and Waveney University Hospital Group Joint
Working Arrangements and Appointment of a General Purpose Joint Committee to
Exercise Joint Functions**

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This variation agreement is made between the Trusts on

Parties:

- (1) **James Paget University Hospitals NHS Foundation Trust** of Lowestoft Road, Gorleston, Great Yarmouth, Norfolk, NR31 6LA (**JPUH**)
- (2) **Norfolk and Norwich University Hospitals NHS Foundation Trust** of Norfolk and Norwich University Hospital Colney Lane Norwich NR4 7UY (**NNUH**) and
- (3) **The Queen Elizabeth Hospital King's Lynn NHS Foundation Trust** of Gayton Rd, King's Lynn PE30 4ET (**QEHKL**)

Each a Trust and together the Trusts

BACKGROUND

- A. The Trusts are parties to a Provider Collaboration Agreement for the purpose of establishing Norfolk and Waveney University Hospital Group joint working arrangements and appointment of a General Purpose Joint Committee to exercise Joint Functions dated 23 October 2025 (the **PCA**).
- B. The Trusts now wish to update the General Purpose Joint Committee ToR as set out in Schedule 4 to the PCA. The Trusts therefore wish to amend the PCA as set out in this variation agreement with effect from 1 April 2026.

Agreed terms

1 Terms defined in the Agreement

In this variation agreement, expressions defined in the PCA and used in this variation agreement have the meaning set out in the PCA unless otherwise defined. The rules of interpretation set out in the PCA apply to this variation agreement.

2 Consideration

In consideration of the mutual promises set out in this variation agreement, the Trusts agree to amend the PCA as set out below.

3 Variation

- 3.1 With effect from 1 April 2026, the Trusts agree to replace the General Purpose Joint Committee ToR as set out in Schedule 4 to the PCA with the updated Terms of Reference attached as **Error! Reference source not found.** to this variation agreement.
- 3.2 Except as set out in clause 3.1, the PCA shall continue in full force and effect.
- 3.3 To the extent of any conflict between the terms of the PCA and this variation agreement, the terms of this variation agreement shall prevail.

4 General provisions

- 4.1 This variation agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or

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claims) shall be governed by and construed in accordance with the law of England and Wales.

4.2 Each Trust irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this variation agreement or its subject matter or formation (including non-contractual disputes or claims).

This variation agreement has been entered into on the date stated at the beginning of it.

Signed by)
duly authorised for and on behalf of)
James Paget University Hospitals NHS)
Foundation Trust)
)

Signed by)
duly authorised for and on behalf of)
Norfolk and Norwich University Hospitals)
NHS Foundation Trust)
)

Signed by)
duly authorised for and on behalf of)
The Queen Elizabeth Hospital King's Lynn)
NHS Foundation Trust)
)

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Schedule 1 General Purpose Joint Committee ToR

NORFOLK & WAVENEY UNIVERSITY HOSPITALS GROUP GENERAL PURPOSE JOINT COMMITTEE TERMS OF REFERENCE

<p>Introduction</p>	<p>1. The three acute NHS hospital trusts in Norfolk & Waveney are:</p> <ul style="list-style-type: none"> (a) James Paget University Hospitals NHS Foundation Trust ('JPUH') (b) Norfolk and Norwich University Hospitals NHS Foundation Trust ('NNUH') (c) Queen Elizabeth Hospital King's Lynn NHS Foundation Trust ('QEH') <p>Each a 'Trust' and together the 'Trusts'</p> <p>2. Defined terms in these ToR shall have the meaning given to them in the Provider Collaboration Agreement.</p>
<p>Status and Authority</p>	<p>3. Section 65Z5 of the National Health Service Act 2006 (as amended) (the NHTA) permits Integrated Care Boards, NHS trusts, and NHS foundation trusts to exercise their functions jointly with each other, subject to:</p> <ul style="list-style-type: none"> (a) Regulations made by secondary legislation, which may constrain that joint exercise of functions, limit the power in relation to certain functions of one or more of those organisations, or impose conditions on the exercise of that power. (b) The expectations of statutory guidance about the exercise of this power, which is published by NHS England under section 65Z7 and which the Trusts must have regard to. <p>4. Arrangements made under section 65Z5 and section 65Z6 may be made on such terms as may be agreed between the organisations, including terms as to payment.</p> <p>5. An NHS foundation trust is also permitted by section 47A of the NHTA to enter into arrangements for the carrying out, on such terms as it considers appropriate, of any of its functions jointly with any</p>

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	<p>other person. NHS trusts have an equivalent power under paragraph 18 of Schedule 4 to the NHSA.</p> <p>6. By virtue of the powers described above, and in accordance with each of their constitutional and governance arrangements, the Trusts have agreed to formally establish a General Purpose Joint Committee to lead the Group and exercise all functions of the Trusts' boards other than the Mandatory Reserved Functions.</p> <p>7. The General Purpose Joint Committee will replace the existing Special Purpose Joint Committee (which will be disestablished) and is authorised by the Boards of the Trusts to take all necessary actions to fulfil the remit described within these terms of reference, including commissioning reports and creating committees. The General Purpose Joint Committee is permitted to establish sub-committees.</p> <p>8. The General Purpose Joint Committee will be known as the Group Board.</p>
<p>Role of the General Purpose Joint Committee</p>	<p>9. The General Purpose Joint Committee has been established to exercise all functions of the Trusts' boards other than the Mandatory Reserved Functions.</p> <p>10. Schedule 2 of the PCA lists the Joint Functions, which have been delegated to the General Purpose Joint Committee by the Trusts and, in relation to which, the General Purpose Joint Committee may take decisions which shall be binding on each of the Trusts. Schedule 3 of the PCA lists the Mandatory Reserved Functions that are retained by the Trusts and where such decisions would require the approval of each Board of Directors.</p> <p>11. In addition, the General Purpose Joint Committee will support the Trusts to achieve the aims and the ambitions of:</p> <ul style="list-style-type: none"> (a) The Norfolk & Waveney system strategy; (b) The 2025/26 annual plan guidance, and (c) The plans prepared by the five place-based partnerships.

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<p>Chairing Arrangements</p>	<p>12. The Chair of the General Purpose Joint Committee will be the Chair in Common of the three Trusts. The Chair will be responsible for agreeing the agenda and ensuring matters discussed meet the objectives set out in these terms of reference.</p> <p>13. The Deputy Chair of the General Purpose Joint Committee will be a Non-Executive Director and will be determined at the inaugural meeting of General Purpose Joint Committee.</p>
<p>Membership</p>	<p>14. The voting members of the General Purpose Joint Committee shall include all the Voting Directors of all Trusts during their terms of office.</p> <p>15. Additionally the Trusts may appoint Non-Voting Directors of the Trusts to be voting or non-voting members of the General Purpose Joint Committee.</p> <p>16. The proceedings of the General Purpose Joint Committee shall not be invalidated by any vacancy in its membership or by any defect in the appointment of a member of the General Purpose Joint Committee.</p> <p>17. Members of the General Purpose Joint Committee will nominate a deputy to attend meetings that they are unable to attend. The deputy must be able speak and (and where applicable) vote on their behalf. The decision of the Chair regarding authorisation of nominated deputies is final.</p>
<p>Participants</p>	<p>18. The General Purpose Joint Committee may invite others to attend meetings, where this would assist it in its role and in the discharge of its duties. This can include other colleagues from the Trusts, NHS Norfolk and Waveney ICB or other partner organisations, at the discretion of the Chair of the General Purpose Joint Committee.</p> <p>19. For the avoidance of doubt, participants shall not have any voting rights, nor shall they be counted towards the quorum for General Purpose Joint Committee meetings.</p>

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<p>Collaborative working and substructures</p>	<p>20. In exercising its responsibilities, the General Purpose Joint Committee shall work with other committees, sub-committees or groups that have been established by the Trusts. This may include, where appropriate, aligning meetings or establishing joint working groups.</p> <p>21. The General Purpose Joint Committee may delegate any of the Joint Functions to the sub-committees it establishes in accordance with these terms of reference.</p> <p>22. Where a function has been delegated by the General Purpose Joint Committee to a sub-committee it shall be recorded in writing. All sub-committees established by the General Purpose Joint Committee must operate under terms of reference approved by the General Purpose Joint Committee.</p> <p>23. Sub-committee may include participants who are not members of the General Purpose Joint Committee (including from partner organisations) where this is appropriate to effectively discharge the sub-committee responsibilities.</p>
<p>Key duties relating to the exercise of the Joint Functions</p>	<p>24. When exercising any Joint Functions, the General Purpose Joint Committee will ensure that it acts in accordance with, and that its decisions are informed by, the relevant policies and procedures which have been developed by the Trusts to support those functions and to inform the commissioning, provision and delivery of any relevant services.</p> <p>25. When exercising a function which has been delegated by a Trust, the General Purpose Joint Committee will have regard to the statutory obligations imposed on that organisation, and that organisation's policies and procedures.</p> <p>26. All sub-committees established by the General Purpose Joint Committee must also have due regard to the applicable statutory duties which apply to the Trusts.</p>
<p>Meetings</p>	<p><i>Scheduling meetings</i></p> <p>27. The General Purpose Joint Committee will ordinarily meet six times per year, and, as a minimum, shall meet on one occasion each</p>

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quarter. Additional meetings may be convened on an exceptional basis at the discretion of the Chair.

28. Ordinary meetings of the General Purpose Joint Committee shall be held at such times, places, and format (including in-person, electronic, or hybrid) as the Chair may determine. The Chair or the Secretary may call a meeting of the General Purpose Joint Committee at any time.

29. Four or more members may requisition a meeting of the General Purpose Joint Committee at any time upon submitting a request in writing to the Secretary specifying the business to be carried out. The Secretary shall send a written notice to all members as soon as possible after receipt of such a request. If a meeting is not then called within a period of at least fourteen but not more than twenty-eight days of a request being presented, the four members may call such a meeting.

Quoracy

30. For a meeting to be quorate there must be at least seven (7) voting members in attendance, which must include:

- (a) no less than four (4) Non-Executive Directors
- (b) at least three (3) Executive Directors Nominated deputies who have been authorised by the Chair shall count towards quorum.

31. If the quorum has not been reached, then the meeting may proceed if those attending agree, but no decisions may be taken.

32. An officer in attendance for an Executive Director at the General Purpose Joint Committee but without formal acting up status may not count towards the quorum.

Voting

33. The General Purpose Joint Committee will seek to reach decisions by consensus. Given its scope of responsibilities, securing the support of all Trusts will be critical to the success of most of the decisions made.

34. If in the opinion of the Chair of the meeting, a vote should be required on a question at the meeting, it shall be determined by a

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majority of the votes of the members present and voting on the question and, in the case of any equality of votes, the Chair of the meeting shall have a second or casting vote.

35. All questions put to the vote shall, at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the members present so request or the Chair of the meeting so directs.
36. If at least one-third of the members present so request, the voting (other than by paper ballot) on any question may be recorded to show how each member present voted or abstained.
37. If a member so requests, their vote shall be recorded by name upon any vote (other than by paper ballot).
38. In no circumstances may an absent member vote by proxy. Absence is defined as being absent at the time of the vote.
39. A member present at a meeting may request that their dissent or objection to a decision of the General Purpose Joint Committee be formally recorded in the minutes. The request must be made at the time the decision is taken. The member may also provide a brief written statement setting out the basis of their dissent, which may be appended to the minutes with the agreement of the Chair.
40. The result of the vote will be recorded in the minutes. Decisions taken shall be binding on each of the Trusts.

Papers and notice

41. Before each meeting, a notice of the meeting, specifying the venue, time and date of the meeting and the business proposed to be transacted, shall be delivered to every member, or sent by post or email to their usual place of residence. Lack of service of the notice on any member shall not affect the validity of a meeting.
42. A minimum of three clear days' notice and dispatch of meeting papers is required.
43. On occasion it may be necessary to arrange urgent meetings at shorter notice. In these circumstances the Chair will give as much notice as

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possible to members. Urgent papers shall be permitted in exceptional circumstances at the discretion of the Chair.

Agendas

44. The agenda for all the meetings will be prepared by the Chair and Chief Executive, assisted by the Secretary.

45. The General Purpose Joint Committee may determine that certain matters shall appear on every agenda for a meeting and shall be addressed prior to any other business being conducted.

46. A member who wishes to add an item should notify the Chair at least ten days before the meeting.

Virtual attendance

47. The General Purpose Joint Committee may agree that its members can participate in its meetings by telephone, video or computer link provided it remains live and uninterrupted. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting.

48. Where a meeting is not held virtually, the Chair may nevertheless agree that individual members may attend virtually. Participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting. How a person has attended a meeting shall be specified in the meeting minutes.

49. Members who are unable to attend a meeting should advise the Secretary in advance of the meeting so that their apologies may be submitted.

Recordings of meetings

50. Except with the permission of the Chair, no person admitted to a meeting of the General Purpose Joint Committee shall be permitted to record the proceedings in any manner whatsoever, other than in writing.

Minutes

51. The minutes of a meeting will be formally taken in the form of key points of debate, actions and decisions and a draft copy circulated

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	<p>to the members of the General Purpose Joint Committee together with the action log as soon after the meeting as practicable. The minutes shall be submitted for agreement at the next meeting.</p> <p><i>Governance support</i></p> <p>52. Governance support to the General Purpose Joint Committee will be determined by the Group Chief Executive.</p> <p><i>Confidential information</i></p> <p>53. Where confidential information is presented to the General Purpose Joint Committee, all attendees will ensure that they treat that information appropriately in light of any confidentiality requirements and information governance principles.</p> <p><i>Meeting in public</i></p> <p>54. Meetings of the General Purpose Joint Committee shall be held in public.</p> <p>55. But the General Purpose Joint Committee may, by resolution, exclude the public from a meeting (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings.</p>
<p>Conflicts of interest</p>	<p>56. All members and participants of the General Purpose Joint Committee shall declare any new interest at the beginning of any meeting.</p> <p>57. Conflicts of interests will be managed in accordance with relevant policies, procedures and protocols of the Trusts.</p> <p>58. If any member of the General Purpose Joint Committee has been excluded from participating on an item in the agenda, by reason of a declaration of conflicts of interest, then that individual shall no longer count towards the quorum.</p>
<p>Dispute Resolution</p>	<p>59. Any disputes shall be resolved in accordance with clause Error! Reference source not found. of the Provider Collaboration Agreement</p>

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Behaviours and Conduct	<p>60. Members of the General Purpose Joint Committee will be expected to behave and conduct business in accordance with:</p> <ul style="list-style-type: none"> a. The policies, procedures and governance documents that apply to them, including any jointly developed for the NWUHG; b. The NHS Constitution; c. The Nolan Principles; d. NHS England's NHS leadership competency framework for board members. <p>61. Members must demonstrably consider equality diversity and inclusion implications of the decisions they make.</p> <p>62. Members will act in the best interests of the combined population served by the Trusts, rather than representing the individual interests of a hospital.</p>
Accountability, reporting, and shared learning	<p>63. The General Purpose Joint Committee is established by and ultimately accountable to the Boards of the Trusts</p> <p>64. Where the General Purpose Joint Committee considers that an issue, or its learning from or experience of a matter, to be of importance or value to the Norfolk & Waveney system as a whole, or part of it, it may bring that matter to the attention of the Director who is responsible for governance within the ICB, the Chair or Chief Executive of the ICB, the Integrated Care Partnership or to one or more of ICB's committees or subcommittees as appropriate.</p>
Amendment	<p>65. These terms of reference may only be amended by variation in accordance with Clause Error! Reference source not found. of the PCA.</p>

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