

# **GLOUCESTERSHIRE PARTNERSHIP NHS FOUNDATION TRUST**

## **Constitution**

July 2007

# Gloucestershire Partnership NHS Foundation Trust Constitution

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## **1. Name**

The name of the foundation trust is Gloucestershire Partnership NHS Foundation Trust (the trust).

## **2. Principal purpose**

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

### **2.1 Other purposes**

2.1.1 The Trust may fulfil the social care functions of Gloucestershire County Council as specified by an agreement under Section 75 of the 2006 Act.

2.1.2 The purpose of the Trust is to provide goods and services, including education, training and research and other facilities for purposes related to the provision of health care, in accordance with its statutory duties and the terms of its Authorisation

2.1.3 The Trust may carry out research in connection with the provision of health care and make facilities and staff available for the purposes of education, training or research carried on by others.

2.1.4 The Trust may also carry on activities other than those mentioned above subject to any restrictions in the terms of authorisation. These activities must be for the purpose of making additional income available in order to carry on the Trust's principal purpose.

## **3. Powers**

3.1 The powers of the trust are set out in the 2006 Act, subject to any restrictions in the terms of Authorisation.

3.2 The powers of the trust shall be exercised by the Board of Directors on behalf of the trust.

3.3 Any of these powers may be delegated to a committee of directors or to an executive director.

## **4. Membership and constituencies**

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

4.1 a public constituency or

4.2 a staff constituency

## **5. Application for membership**

An individual who is eligible to become a member of the trust may do so on application to the trust as set out in paragraphs 6.4 and 7.6.

## **6. Public Constituency**

- 6.1 An individual who lives in the area specified in Annex 1 as the area for a public constituency may become or continue as a member of the trust.
- 6.2 Those individuals who live in an area specified as an area for any public constituency are referred to collectively as the Public Constituency.
- 6.3 The minimum number of members in each area for the Public Constituency is specified in Annex 1.
- 6.4 An eligible individual shall become a Member upon entry to the membership register pursuant to an application by them.
- 6.5 On receipt of an application for membership and subject to being satisfied that the applicant is eligible the Trust Secretary shall cause the applicant's name to be entered in the Trust's register of Members

## **7. Staff Constituency**

- 7.1 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:
  - 7.1.1 he is employed by the trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or
  - 7.1.2 he has been continuously employed by the trust under a contract of employment for at least 12 months.
- 7.2 Those individuals who are eligible for membership of the trust by reason of the previous provisions are referred to collectively as the Staff Constituency.
- 7.3 The Staff Constituency shall be divided into 5 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.
- 7.4 The minimum number of members in each class of the Staff Constituency is specified in Annex 2.

### **Automatic membership by default – staff**

- 7.5 An individual who is:
  - 7.5.1 eligible to become a member of the Staff Constituency, and

7.5.2 invited by the trust to become a member of the Staff Constituency and a member of the appropriate class within the Staff Constituency,

shall become a member of the trust as a member of the Staff Constituency and appropriate class within the Staff Constituency without an application being made, unless he informs the Trust Secretary that he does not wish to do so.

### **Procedure for becoming a member**

- 7.6 Any individual who is eligible to become a member of the Staff Constituency under paragraph 7.1 above shall become a Member upon entry to the membership register pursuant to an application by them or pursuant to paragraph 7.6.2 above
- 7.7 On receipt of an application for membership as described in paragraph 7.7 above and subject to being satisfied that the applicant is eligible the Trust Secretary shall cause the applicant's name to be entered in the Trust's register of Members

### **8. Restriction on membership**

- 8.1 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.
- 8.2 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.
- 8.3 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 8 – Further Provisions.

### **9. Council of Governors – composition**

- 9.1 The trust is to have a Council of Governors, which shall comprise both elected and appointed governors.
- 9.2 The composition of the Council of Governors is specified in Annex 3.
- 9.3 The members of the Council of Governors, other than the appointed members, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency. The number of governors to be elected by each constituency, or, where appropriate, by each class of each constituency, is specified in Annex 3.

### **10. Council of Governors – election of governors**

- 10.1 Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Rules for Elections, as may be varied from time to time.
- 10.2 The Model Rules for Elections, as may be varied from time to time, form part of this constitution and are attached at Annex 4.
- 10.3 A variation of the Model Rules by the Department of Health shall not constitute a variation of the terms of this constitution. For the avoidance of doubt, the trust cannot amend the Model Rules.
- 10.4 An election, if contested, shall be by secret ballot.

#### **11. Council of Governors – tenure**

- 11.1 An elected governor may hold office for a period of up to 3 years.
- 11.2 An elected governor shall cease to hold office if he ceases to be a member of the constituency or class by which he was elected.
- 11.3 An elected governor shall be eligible for re-election at the end of his term. He may not hold office for longer than 6 consecutive years.

#### **12. Council of Governors – disqualification and removal**

- 12.1 The following may not become or continue as a member of the Council of Governors:
- 12.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
- 12.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it;
- 12.1.3 a person who within the preceding five years has been convicted in the British Isles of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.
- 12.2 Governors must be at least 16 years of age at the date they are nominated for election or appointment.
- 12.3 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 5

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

- 13.1 The Chairman of the trust (i.e. the Chairman of the Board of Directors, appointed in accordance with the provisions of paragraph 21.1 or paragraph 22.1 below) or, in his absence the Deputy Chairman (appointed in accordance

with the provisions of paragraph 23 below), shall preside at meetings of the Council of Governors. In the absence of the Chairman and Deputy Chairman a Non-executive Director nominated by the Chairman shall preside at meetings of the Council of Governors.

- 13.2 Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.

**14. Council of Governors – standing orders**

The standing orders for the practice and procedure of the Council of Governors, as may be varied from time to time, are attached at Annex 6.

**15. Council of Governors - conflicts of interest of governors**

If a governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the governor shall disclose that interest to the members of the Council of Governors as soon as he becomes aware of it. The Standing Orders for the Council of Governors shall make provision for the disclosure of interests and arrangements for the exclusion of a governor declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

**16. Council of Governors – travel expenses**

The trust may pay travelling and other expenses to members of the Council of Governors at rates determined by the trust.

**17. Council of Governors – further provisions**

Further provisions with respect to the Council of Governors are set out in Annex 5.

**18. Board of Directors – composition**

- 18.1 The trust is to have a Board of Directors, which shall comprise both executive and non-executive directors.

- 18.2 The Board of Directors is to comprise:

18.2.1 a non-executive Chairman

18.2.2 no less than 5 but no more than 7 other non-executive directors; and

18.2.3 no less than 5 but no more than 7 executive directors.

- 18.3 One of the executive directors shall be the Chief Executive.

- 18.4 The Chief Executive shall be the Accounting Officer.

- 18.5 One of the executive directors shall be the finance director.
- 18.6 One of the executive directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).
- 18.7 One of the executive directors is to be a registered nurse or a registered midwife.
- 18.8 The aggregate number of non-executive directors (including the Chairman) is to be more than half of the Board of Directors.

**19. Board of Directors – qualification for appointment as a non-executive director**

A person may be appointed as a non-executive director only if –

- 19.1 he is a member of the Public Constituency, and
- 19.2 he is not disqualified by virtue of paragraph 25 below.

**20. Board of Directors – appointment and removal of chairman and other non-executive directors**

- 20.1 The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the chairman of the trust and the other non-executive directors.
- 20.2 Removal of the chairman or another non-executive director shall require the approval of three-quarters of the members of the -Council of Governors.
- 20.3 The initial chairman and the initial non-executive directors are to be appointed in accordance with paragraph 21 below.

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

- 21.1 The Chairman of the applicant NHS Trust shall be appointed as the initial Chairman of the trust if he wishes to be appointed.
- 21.2 The power of the Council of Governors to appoint the other non-executive directors of the trust is to be exercised, so far as possible, by appointing as the initial non-executive directors of the trust any of the non-executive directors of the applicant NHS Trust (other than the Chairman) who wish to be appointed.
- 21.3 The criteria for qualification for appointment as a non-executive director set out in paragraph 19 above (other than disqualification by virtue of paragraph 25 below) do not apply to the appointment of the initial chairman and the initial other non-executive directors in accordance with the procedures set out in this paragraph.

21.4 An individual appointed as the initial chairman or as an initial non-executive director in accordance with the provisions of this paragraph shall be appointed for the unexpired period of his term of office as Chairman or (as the case may be) non-executive director of the applicant NHS Trust; but if, on appointment, that period is less than 12 months, he shall be appointed for 12 months.

**22. Board of Directors – appointment of deputy chairman**

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

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

23.1 The non-executive directors shall appoint or remove the Chief Executive.

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

23.3 The initial Chief Executive is to be appointed in accordance with paragraph 24 below.

23.4 A committee consisting of the Chairman, the Chief Executive and the other non-executive directors shall appoint or remove the other executive directors.

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

24.1 The chief officer of the applicant NHS Trust shall be appointed as the initial Chief Executive of the trust if he wishes to be appointed.

24.2 The appointment of the chief officer of the applicant NHS trust as the initial Chief Executive of the trust shall not require the approval of the Council of Governors.

**25. Board of Directors – disqualification**

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

25.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged.

25.2 a person who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it.

25.3 a person who within the preceding five years has been convicted in the British Isles of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him in the case of a non-executive Director, he no longer satisfies paragraph 9.3.

- 25.4 he is a person whose tenure of office as a chairman or as a member or director of a health service body has been terminated on the grounds that his appointment is not in the interests of public service, for non attendance at meetings, or for non-disclosure of a pecuniary interest;
- 25.5 he has had his name removed by any PCT from any list prepared under parts 4,5, 6,or 7 of the 2006 Act, and has not subsequently had his name included in such a list;
- 25.6 he has within the preceding two years been dismissed, otherwise than by reason of redundancy or ill health from any paid employment with a health service body.

**26. Board of Directors – standing orders**

The standing orders for the practice and procedure of the Board of Directors, as may be varied from time to time, are attached at Annex 7.

**27. Board of Directors - conflicts of interest of directors**

If a director has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Board of Directors, the director shall disclose that interest to the members of the Board of Directors as soon as he becomes aware of it. The Standing Orders for the Board of Directors shall make provision for the disclosure of interests and arrangements for the exclusion of a director declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

**28. Board of Directors – remuneration and terms of office**

- 28.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chairman and the other non-executive directors.
- 28.2 The trust shall establish a committee of non-executive directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other executive directors.

**29. Registers**

The trust shall have:

- 29.1 a register of members showing, in respect of each member, the constituency to which he belongs and, where there are classes within it, the class to which he belongs;
- 29.2 a register of members of the Council of Governors;

- 29.3 a register of interests of governors;
- 29.4 a register of directors; and
- 29.5 a register of interests of the directors.

**30. Admission to and removal from the registers**

At the discretion of the Trust Secretary where the member consistently fails to respond to requests to confirm interest in continuing membership the Trust Secretary may remove the member's name from the Register of Members

**31. Registers – inspection and copies**

- 31.1 The trust shall make the registers specified in paragraph 30 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.
- 31.2 The trust shall not make any part of its registers available for inspection by members of the public which shows details of any member of the trust, if the member so requests.
- 31.3 So far as the registers are required to be made available:
  - 31.3.1 they are to be available for inspection free of charge at all reasonable times; and
  - 31.3.2 a person who requests a copy of or extract from the registers is to be provided with a copy or extract.
- 31.4 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.

**32. Documents available for public inspection**

- 32.1 The trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times:
  - 32.1.1 a copy of the current constitution;
  - 32.1.2 a copy of the current authorisation;
  - 32.1.3 a copy of the latest annual accounts and of any report of the auditor on them;
  - 32.1.4 a copy of the latest annual report;
  - 32.1.5 a copy of the latest information as to its forward planning; and
  - 32.1.6 a copy of any notice given under section 52 of the 2006 Act.

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

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

**33. Auditor**

33.1 The trust shall have an auditor.

33.2 The Council of Governors shall appoint or remove the auditor at a general meeting of the Council of Governors.

**34. Audit committee**

The trust shall establish a committee of non-executive directors as an audit committee to perform such monitoring, reviewing and other functions as are appropriate.

**35. Accounts**

35.1 The trust shall keep accounts in such form as Monitor may with the approval of HM Treasury direct.

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

35.3 The trust shall prepare in respect of each financial year annual accounts in such form as Monitor may with the approval of HM Treasury direct.

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

**36. Annual report and forward plans**

36.1 The trust shall prepare an Annual Report and send it to Monitor.

36.2 The trust shall give information as to its forward planning in respect of each financial year to Monitor.

36.3 The document containing the information with respect to forward planning (referred to above) shall be prepared by the directors.

36.4 In preparing the document, the directors shall have regard to the views of the Council of Governors.

**37. Meeting of Council of Governors to consider annual accounts and reports**

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

- 37.1 the annual accounts
- 37.2 any report of the auditor on them
- 37.3 the annual report.

**38. Instruments**

- 38.1 The trust shall have a seal.
- 38.2 The seal shall not be affixed except under the authority of the Board of Directors.

**39. Interpretation and definitions**

- 39.1 Unless a contrary intention is evident or the context requires otherwise, words or expressions contained in this constitution shall bear the same meaning as in the 2006 Act.
- 39.2 Words importing the masculine gender only shall include the feminine gender; words importing the singular shall import the plural and vice-versa.
- 39.3 References in this Constitution to legislation include all amendments, replacements or re-enactments made

**the 2006 Act** National Health Service Act 2006

**Monitor** is the Independent Regulator of NHS Foundation Trusts, pursuant to Section 31 of the 2006 Act.

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

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

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

**Council of Governors** has the same meaning as “Board of Governors” in the 2006 Act

<b>ANNEX 1 – THE PUBLIC CONSTITUENCY</b>
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<b><u>Name of constituency</u></b>	<b><u>Area</u></b>	<b><u>Minimum no. of members</u></b>	<b><u>Number of governors</u></b>
Cheltenham	The electoral area of Cheltenham Borough Council	12	3
Cotswold	The electoral area of Cotswold District Council	12	2
Forest	The electoral area of Forest of Dean District Council	12	2
Gloucester	The electoral area of Gloucester City Council	12	3
Stroud	The electoral area of Stroud District Council	12	3
Tewkesbury	The electoral area of Tewkesbury Borough Council	12	2

**ANNEX 2 – THE STAFF CONSTITUENCY**

<b><u>Name of Staff Class</u></b>	<b><u>Description</u></b>	<b><u>Minimum no. of members</u></b>	<b><u>Number of governors</u></b>
the medical staff class	Staff who are registered persons within the meaning of the Medical Act 1983 and who hold a licence to practice under that Act	12	1
the nursing staff class	Staff who are registered nurses on the register maintained by the Nursing and Midwifery Council pursuant to the Nursing and Midwifery Order 2001	12	3
the allied health professionals and social work staff class	Staff who are either:  allied health professionals who are registered with a regulatory body within the remit of the Council for the Regulation of Health Care Professions established by section 25 of the NHS Reform and Health Care Professionals Act 2002: or  social workers registered as such with the Social Care Council as established by the Care Standards Act 2001	12	1
the clinical and social care support staff class	individuals who are employed wholly or mainly in direct clinical and care roles but not eligible for membership of those classes described above	12	1
the management, administrative and other staff class.	individuals who are management or administrative staff or others entitled to be members of the staff constituency who do not come within those classes described above	12	2

<b>ANNEX 3 – COMPOSITION OF COUNCIL OF GOVERNORS</b>
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**THE COUNCIL OF GOVERNORS**

The Trust will have a Council of Governors consisting of public, staff, primary care trust, local authority governors. There will also be a governor appointed by the Gloucestershire Learning Disability Partnership Board.

**Council of Governors**

<b><u>Category of Governor</u></b>	<b><u>Number of Governors</u></b>
Public governors	
• Cheltenham	3
• Cotswold	2
• Forest	2
• Gloucester	3
• Stroud	3
• Tewkesbury	2
Staff governors:	
• Medical Practitioners' staff class	1
• Nursing staff class	3
• Allied Health Professionals and Social Work staff class	1
• Clinical and Social Care Support staff class	1
• Management, administrative and other staff class	2
Appointed:	
• Gloucestershire Primary Care Trust	1
• Gloucestershire County Council	1
• Nomination from six city/borough/ district councils	1
• Gloucestershire Learning Disabilities Partnership Board	1
<b>Total</b>	<b>27</b>

## ANNEX 4 –THE MODEL RULES FOR ELECTIONS (Single Transferable Vote)

### Model Election Rules (DH Guidance Jan 2006)

#### *Part 1 - Interpretation*

1. Interpretation

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

2. Timetable
3. Computation of time

#### *Part 3 – Returning officer*

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

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

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

#### *Part 5 – Contested elections*

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

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

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

#### *The poll*

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

#### *Procedure for receipt of envelopes*

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

*Part 6 - Counting the votes*

36. Interpretation of Part 6
37. Arrangements for counting of the votes
38. The count
39. Rejected ballot papers
40. First stage
41. The quota
42. Transfer of votes
43. Supplementary provisions on transfer
44. Exclusion of candidates
45. Filling of last vacancies
46. Order of election of candidates

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

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

*Part 8 – Disposal of documents*

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

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

54. Countermand or abandonment of poll on death of candidate

*Part 10 – Election expenses and publicity*

*Expenses*

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

*Publicity*

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

*Part 11 – Questioning elections and irregularities*

61. Application to question an election

*Part 12 – Miscellaneous*

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

### *Part 1 - Interpretation*

**1. Interpretation** – (1) In these rules, unless the context otherwise requires - “corporation” means the public benefit corporation subject to this constitution; “election” means an election by a constituency, or by a class within a constituency, to fill a vacancy among one or more posts on the board of governors; “the regulator” means the Independent Regulator for NHS foundation trusts; and “the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003.

(2) Other expressions used in these rules and in Schedule 1 to the Health and Social Care (Community Health and Standards) Act 2003 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.

<b>Proceeding</b>	<b>Time</b>
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,

(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,
- (g) the address and final dates for applications for replacement ballot papers, and
- (h) the contact details of the returning officer.

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

- (a) a ballot paper and ballot paper envelope,
- (b) a declaration of identity (if required),
- (c) information about each candidate standing for election, pursuant to rule 59 of these rules, and
- (d) a covering envelope.

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

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

(2) The covering envelope is to have –

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

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

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

*The poll*

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

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

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

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

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

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

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

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

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

(a) the name of the voter, and

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

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

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

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

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

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

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

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

(a) the name of the voter, and

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

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

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

(a) the name of the voter, and

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

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

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

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

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

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

(a) the name of the voter,

- (b) the address of the voter,
  - (c) the voter's signature, and
  - (d) the date that the declaration was made by the voter.
- (4) The voter must be required to return the declaration of identity together with the ballot paper.
- (5) The declaration of identity must caution the voter that if it is not returned with the ballot paper, or if it is returned without being correctly completed, the replacement ballot paper may be declared invalid.

*Procedure for receipt of envelopes*

- 32. Receipt of voting documents** – (1) Where the returning officer receives a –
- (a) covering envelope, or
  - (b) any other envelope containing a declaration of identity if required, a ballot paper envelope, or a ballot paper, before the close of the poll, that officer is to open it as soon as is practicable; and
- rules 33 and 34 are to apply.
- (2) The returning officer may open any ballot paper envelope for the purposes of rules 33 and 34 but must make arrangements to ensure that no person obtains or communicates information as to:
- (a) the candidate for whom a voter has voted, or
  - (b) the unique identifier on a ballot paper.
- (3) The returning officer must make arrangements to ensure the safety and security of the ballot papers and other documents.

- 33. Validity of ballot paper** – (1) A ballot paper shall not be taken to be duly returned unless the returning officer is satisfied that it has been received by the returning officer before the close of the poll, with a declaration of identity if required that has been correctly completed, signed, and dated.
- (2) Where the returning officer is satisfied that paragraph (1) has been fulfilled, he or she is to –
- (a) put the declaration of identity if required in a separate packet, and
  - (b) put the ballot paper aside for counting after the close of the poll.
- (3) Where the returning officer is not satisfied that paragraph (1) has been fulfilled, he or she is to:
- (a) mark the ballot paper “disqualified”,
  - (b) if there is a declaration of identity accompanying the ballot paper, mark it as “disqualified” and attach it the ballot paper,
  - (c) record the unique identifier on the ballot paper in a list (the “list of disqualified documents”); and
  - (d) place the document or documents in a separate packet.

- 34. Declaration of identity but no ballot paper (public and patient constituency)** – Where the returning officer receives a declaration of identity if required but no ballot paper, the returning officer is to –
- (a) mark the declaration of identity “disqualified”,
  - (b) record the name of the voter in the list of disqualified documents, indicating that a declaration of identity was received from the voter without a ballot paper; and
  - (c) place the declaration of identity in a separate packet.

- 35. Sealing of packets** – As soon as is possible after the close of the poll and after the completion of the procedure under rules 33 and 34, the returning officer is to seal the packets containing–
- (a) the disqualified documents, together with the list of disqualified documents inside it,
  - (b) the declarations of identity if required,

- (c) the list of spoiled ballot papers,
- (d) the list of lost ballot papers,
- (e) the list of eligible voters, and
- (f) the list of tendered ballot papers.

*Part 6 - Counting the votes*

**36. 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.

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

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

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

- 40. 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.

- 41. 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.

- 42. 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.
- (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.

**43. 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.

**44. 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,

(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.

**45. 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.

**46. 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.

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

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

(a) declare the 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*

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

- (a) 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.

*Publicity*

**58. Publicity about election by the corporation** – (1) The corporation may –

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

(2) Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 59, must be –

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

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

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

(2) The information must consist of –

- (a) a statement submitted by the candidate of no more than [250] words, [and]
- [(b) a photograph of the candidate.]

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

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

*Part 11 – Questioning elections and the consequence of irregularities*

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

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

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

- (a) a person who voted at the election or who claimed to have had the right to vote, or
  - (b) a candidate, or a person claiming to have had a right to be elected at the election.
- (4) The application must –
- (a) describe the alleged breach of the rules or electoral irregularity, and
  - (b) be in such a form as the Regulator may require.
- (5) The application must be presented in writing within 21 days of the declaration of the result of the election.
- (6) If the Regulator requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.
- a). The Regulator shall delegate the determination of an application to a person or persons to be nominated for the purpose of the Regulator.
  - b). The determination by the person or persons nominated in accordance with Rule 61(7) shall be binding on and shall be given effect by the corporation, the applicant and the members of the constituency (or class within a constituency) including all the candidates for the election to which the application relates.
  - c). The Regulator may prescribe rules of procedure for the determination of an application including costs.

#### *Part 12 – Miscellaneous*

**62. Secrecy** – (1) The following persons –

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

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

- (i) the name of any member of the corporation who has or has not been given a ballot paper or who has or has not voted,
- (ii) the unique identifier on any ballot paper,
- (iii) the candidate(s) for whom any member has voted.

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

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

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

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

- (a) a member of the corporation,
- (b) an employee of the corporation,
- (c) a director of the corporation, or
- (d) employed by or on behalf of a person who has been nominated for election.

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

- (a) the delivery of the documents in rule 24, or
- (b) the return of the ballot papers and declarations of identity, the returning officer may extend the time between the publication of the notice of the poll and the close of the poll, with the agreement of the Regulator.

## **ANNEX 5 – ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS**

### **1. PCT Governor**

- 1.1 Gloucestershire Primary Care Trust (or any successor body) may appoint 1 PCT governor by a nomination in writing signed by the Chair of the PCT.

### **2. Local Authority Governors**

- 2.1 Gloucestershire County Council may appoint a member of the Council as a Local Authority Governor by nomination in writing signed by the leader of the Council.
- 2.2 The six second tier councils in Gloucestershire shall consult between themselves and appoint one Council to exercise the right to appoint a member of one of the councils as a Local Authority Governor. If the Councils do not notify the Trust which council will exercise the function of appointing the governor, the Chairman of the Trust may nominate one such council to do so. The appointment shall be in writing and signed by the leader of the Council chosen to exercise the right .

### **3. Other partnership Governors**

- 3.1 The other partnership governor is to be appointed by Gloucestershire Learning Disability Partnership Board in accordance with a process agreed with the Trust Secretary.

### **4. Advisors**

- 4.1 Where the Council of Governors believes it to be necessary it may appoint co-opted advisors. It may seek nominations for co opted advisors from voluntary and community sector organisations working in Gloucestershire to speak for the following special interests:
- Older people's mental health
  - Adults of working age mental health
  - Children's and adolescents' mental health
  - People who misuse substances
  - Black and ethnic minority communities
  - Carers
  - Young Carers
- 4.2 Co-opted advisors may speak at meetings of the Council of Governors but may not vote and will not count towards any quorum.
- 4.3 The co-opted advisors are to be appointed by the Council for such period and in accordance with such process as may be approved by the Council of Governors at a general meeting.

## **5. Terms of office**

- 5.1 PCT governors may hold office for a period of 3 years; they are eligible for reappointment at the end of that period; they may not hold office for longer than 6 years. They must cease to hold office if the sponsoring PCT withdraws its sponsorship of them.
- 5.2 Local Authority governors may hold office for the period of their current term of office as a councillor, and are eligible for reappointment at the end of that period; they may not hold office for longer than two terms of office as a County or District/City/Borough Councillor. They cease to hold office if the sponsoring local authority withdraws sponsorship of them
- 5.3 Other partnership governors may hold office for a period of 3 years and are eligible for reappointment at the end of that period; but may not hold office for longer than 6 years. They must cease to hold office if the sponsoring partnership organisation withdraws its sponsorship of them.
- 5.4 A person may not become or continue as a governor of the Trust if-
- he has within the preceding two years been dismissed, otherwise than by reason of redundancy or sickness, from any paid employment with a health service body;
  - he is a person whose tenure of office as the chairman or as a member or director of a health service body has been terminated on the grounds that his appointment is not in the interests of the health service, for non attendance at meetings, or for non-disclosure of a pecuniary interest;
  - he is an executive or non-executive Director of the Trust;
  - he has had his name removed by any PCT from any list prepared under Parts 3,4,5,or,6 of the 2006 Act, and has not subsequently had his name included in such a list;
  - he is a member of the Patient's forum established for the Trust pursuant to the NHS Reform and Health Care Professions Act 2002.
  - he is subject to a directors disqualification order made under the Company Directors disqualification act 1986
- 5.5 Where a person has been elected or appointed to be a governor and he becomes disqualified for appointment he shall notify the Trust Secretary in writing of such disqualification.
- 5.6 If it comes to the notice of the Trust Secretary at the time of his appointment or later that the governor is so disqualified, he shall immediately declare that the person in question is disqualified and notify him in writing to that effect. Upon receipt of any such notification, that person's tenure of office, if any, shall be terminated and he shall cease to act as a governor. If the Governor is aggrieved at the decision of the Trust Secretary he may appeal in writing within 14 days of the Trust Secretary's decision to the Council of Governors whose decision shall be final.

## **6. Vacancies**

- 6.1 Where membership of the Council of Governors ceases, Public and Staff Governors shall be replaced by the candidate in the same constituency and class with the next highest number of votes at the last election. If the vacancy cannot be filled by this method and there is at least one year left to run in that term, the Governor will be replaced by holding a by-election, in accordance with the relevant Electoral Scheme
- 6.2 PCT Governors, and other partnership governors are to be replaced in accordance with the processes agreed pursuant to section 7 below.

## **7. Termination of tenure**

- 7.1 A governor may resign from that office at any time during the term of that office by giving notice in writing to the Trust Secretary.
- 7.2 If a governor fails to attend general meetings of the Council of Governors, for three consecutive meetings, his tenure of office is to be terminated at the next meeting unless the other governors (by a simple majority) are satisfied that:-  
  
the absence was due to a reasonable cause; and  
he will be able to start attending meetings of the Trust again within such a period as they consider reasonable.
- 7.3 The Council of Governors may terminate the tenure of a Governor, by a three quarters majority of the Council of Governors voting, if it is satisfied that he:
- fails to adhere to the Trust's Governor's code of conduct, and/or
  - persists in acting in a manner prejudicial to the best interests of the Trust.
- 7.4 Standing orders shall provide for the procedure to be adopted in connection with motions to terminate the tenure of Governors.

## **8. Duties and powers of Governors**

- 8.1 The duties and powers of the governors at a General Meeting are:-
- to develop and approve a membership strategy
  - to consider any motion for the removal of a Governor
  - to consider the annual accounts, any report of the auditor on them and the annual report;
  - to consider and resolve any disputes concerning the membership
  - to take on such other responsibilities as the Board of Directors may from time to time request.
- 8.2 A governor elected to the Council by a public constituency, or a class of the staff constituency may not vote at a meeting of the council unless, within the previous 7 days, he has made a declaration in the form specified in the Standing Orders stating which constituency or class he is a member of and is

not prevented from being a member of the council by paragraph 8 of Schedule 7 to the 2006 Act or under this constitution.

## **9. Remuneration**

- 9.1 Governors are not permitted to receive remuneration.
- 9.2 The remuneration and allowances for non-executive Directors set by the governors are to be published in the annual report.

## **10. Meetings**

- 10.1 Meetings of the Council of Governors are to be open to members of the public except where the Council resolves to exclude the public on the grounds that publicity would be prejudicial to the public interest by reason of the confidential nature of the subject matter under consideration or for other special reasons stated in the resolution and arising from the nature of the business or the proceedings.
- 10.2 The Council of Governors is to meet at least 3 times per year.
- 10.3 At a general meeting, to be held no later than September of each financial year, the Council of Governors is to receive and consider the annual accounts, any report of the auditor on them, and the annual report.

## **11. Committees and sub-committee**

- 11.1 The council of governors may appoint committees consisting of its members to assist it in carrying out its functions. A committee appointed under this paragraph may appoint a sub-committee.
- 11.2 These committees or sub-committees may call upon any person to help them in their tasks.

## **12. Code of Conduct for Governors**

- 12.1 The Council of Governors will adopt its own Code of Conduct for Governors.

**GLOUCESTERSHIRE PARTNERSHIP  
NHS FOUNDATION TRUST**

**STANDING ORDERS FOR THE PRACTICE AND  
PROCEDURE OF THE COUNCIL OF GOVERNORS**

**July 2007**

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## **1. INTERPRETATION**

1.1 The Chairman of the Trust shall be the final authority on the interpretation of Standing Orders.

1.2 Any expression to which a meaning is given in the National Health Service Act 2006 or the Constitution shall have the same meaning in these Standing Orders and in addition:

“Governor” – Member of the Council of Governors whether elected or appointed.

"Board of Directors" – means the Board of Directors of the Trust as constituted in accordance with the Constitution and National Health Service Act 2006

"Director" – Directors on the Board of Directors whether Non-Executive (including the Chair) or Executive (including the Chief Executive).

“Chair” means the Chairman of the Trust for the time being.

“Clear day” means a normal working day excluding the day on which the notice or step is taken. and the

## 2. THE TRUST

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

## 3. MEETINGS OF THE COUNCIL OF GOVERNORS

- 3.1 **Admission of the Public and the Press** – Members of the Trust, the public and representatives of the press shall be afforded facilities to attend all formal meetings of the Council of Governors but shall be required to withdraw upon the Council of Governors resolving as follows:

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

The right of attendance referred to above carries no right to ask questions or otherwise participate in the meeting.

- 3.2 The Chair (or other person presiding under the provisions of Standing Order 3.15) shall give such directions as he/she thinks fit in regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the business of the meeting shall be conducted without interruption and disruption and, without prejudice to the power to exclude on grounds of the confidential nature of the business to be transacted, the public will be required to withdraw upon the Council of Governors resolving as follows:

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

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

- 3.6 **Calling Meetings** - Ordinary meetings of the Council of Governors shall be held at such times and places as the Council of Governors may determine. There shall be no fewer than three such meetings in every calendar year.
- 3.7 The Chair may call a meeting of the Council of Governors at any time. If the Chair refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of Governors, has been presented to him/her, or if, without so refusing, the Chair does not call a meeting within seven days after such requisition has been presented to him/her, at the Trust's Headquarters, such one third or more Governors may forthwith call a meeting.
- 3.8 **Notice of Meetings** - Before each meeting of the Council of Governors a notice of the meeting, specifying the business proposed to be transacted at it and signed by the Chair or by an officer authorised by the Chair to sign on his/her behalf shall be delivered to every Governor or sent by post to the usual place of residence of the Governor so as to be available to him/her at least five clear days before the meeting.
- 3.9 Want of service of the notice on any Governor shall not affect the validity of a meeting.
- 3.10 In the case of a meeting called by Governors in default of the Chair, the notice shall be signed by those Governors and no business shall be transacted at the meeting other than that specified in the notice. Failure to serve such a notice on more than three Governors will invalidate the meeting. A notice shall be presumed to have been served one day after posting.
- 3.11 Before each meeting of the Council of Governors a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed at the Trust's office at least three clear days before the meeting.
- 3.12 **Setting the Agenda** - The Council of Governors may determine that certain matters shall appear on every agenda for a meeting of the Council of Governors and shall be addressed prior to any other business being conducted. (Such matters may be identified within these Standing Orders or following subsequent resolution shall be listed in an Appendix to the Standing Orders.)
- 3.13 A Governor desiring a matter to be included on an agenda shall make his/her request in writing to the Chair at least 10 clear days before the meeting. The request should include appropriate supporting information. Requests made less than 10 days before a meeting may be included on the agenda at the discretion of the Chair.
- 3.14 **Chair of Meeting** – At any meeting of the Council of Governors, the Chair, if present, shall preside and shall be entitled to exercise a second or casting vote where the number of votes for and against a motion is equal.

- 3.15 In the absence of the Trust Chairman, the Deputy Chairman of the Board of Directors or another non-executive Director of the Trust nominated by the Board Chair will preside and he/she shall exercise all the rights and obligations of the Chair including the right to exercise a second or casting vote where the number of votes for and against a motion is equal.
- 3.16 If any matter for consideration at a meeting of the Council of Governors relates to the conduct or interests of the Chair or to the conduct or interest of the non-executive Directors as a class, neither the Chair nor any of the non-executive Directors shall preside over the period of the meeting during which the matter is under discussion. The Governors shall elect one of their number to preside during that period and that person shall exercise all the rights and obligations of the Chair including the right to exercise a second or casting vote where the number of votes for and against a motion is equal.
- 3.17 **Annual Public Meeting** - The Trust will publicise and hold an annual public meeting of the Council of Governors...
- 3.18 **Notices of Motion** – A member of the Council of Governors desiring to move or amend a motion shall send a written notice thereof at least 10 clear days before the meeting to the Chair, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible under the appropriate regulations. This paragraph shall not prevent any motion being moved during the meeting, without notice on any business mentioned on the agenda subject to Standing Order 3.10.
- 3.19 **Withdrawal of Motion or Amendments** - A motion or amendment once moved and seconded may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Chair.
- 3.20 **Motion to Rescind a Resolution** - Notice of motion to amend or rescind any resolution (or the general substance of any resolution) which has been passed within the preceding 6 calendar months shall bear the signature of the Governor(s) who gives it and also the signature of 4 other Governors. When any such motion has been disposed of by the Council of Governors, it shall not be competent for any Governor other than the Chair to propose a motion to the same effect within 6 months; however the Chair may do so if he/she considers it appropriate.
- 3.21 **Motions** - The mover of a motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.
- 3.22 When a motion is under discussion or immediately prior to discussion it shall be open to a Governor to move:
- An amendment to the motion.
  - The adjournment of the discussion or the meeting.
  - That the meeting proceed to the next business. (\*)

- The appointment of an ad hoc committee to deal with a specific item of business.
- That the motion be now put. (\*)

\* In the case of sub-paragraphs denoted by (\*) above to ensure objectivity motions may only be put by a Governor who has not previously taken part in the debate and who is eligible to vote.

No amendment to the motion shall be admitted if, in the opinion of the Chair of the meeting, the amendment negates the substance of the motion.

- 3.23 **Chair's Ruling** - Statements of Governors made at meetings of the Members Council 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, relevance, regularity and any other matters shall be final.
- 3.24 **Voting** – If, in the opinion of the Chair, a vote should be required on a question at a meeting, the result shall be determined by a majority of the votes of the Governors present and voting on the question.
- 3.25 All questions put to the vote shall, at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Governors present so request.
- 3.26 If at least one-third of the Governors present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Governor present voted or abstained.
- 3.27 If a Governor so requests, his/her vote shall be recorded by name upon any vote (other than by paper ballot).
- 3.28 In no circumstances may an absent Governor vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.29 **Minutes** - 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.
- 3.30 No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.
- 3.31 Minutes shall be circulated in accordance with the Council's wishes. Where providing a record of a public meeting, the minutes shall be made available to the public.
- 3.32 **Suspension of Standing Orders** - Except where this would contravene any provision of the Constitution or Authorisation or any statutory provision any one or more of the Standing Orders may be suspended at any

meeting, provided that at least two-thirds of the Governors are present, including one elected Governor and one nominated Governor and that a majority of those present vote in favour of suspension.

- 3.33 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.
- 3.34 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Council.
- 3.35 No formal business may be transacted while Standing Orders are suspended.
- 3.36 The Governance (Audit) Committee of the Board of Directors shall review every decision of the Council of Governors to suspend Standing Orders.
- 3.37 **Record of Attendance** - The names of the Governors present at the meeting shall be recorded in the minutes.
- 3.38 **Quorum** - No business shall be transacted at a meeting of the Council of Governors unless at least one-third of the whole number of the Governors are present including at least one elected Governor from a Public Constituency, one elected Governor from the Staff Constituency and one nominated Governor.
- 3.39 If a Governor has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest (see Standing Order 5 or 6) he/she shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.
- 3.40 **Adjournment of Meetings** - The Council of Governors may, by resolution, adjourn any meeting to some other specified date, place and time and such adjourned meeting shall be deemed a continuation of the original meeting. No business shall be transacted at any adjourned meeting which was not included in the agenda of the meeting of which it is an adjournment.
- 3.41 When any meeting is adjourned to another day, other than the following day, notice of the adjourned meeting shall be sent to each Governor specifying the business to be transacted.

#### **Termination of Tenure of Governors of Governors and Non Executive Members of the Board.**

- 3.42 In respect of any resolution to remove a Governor or a non executive director of the Trust, including the Chair of the Trust, the following provisions shall apply in place of those set out above.

- 3.43 28 days notice must be given of any meeting or resolution or notice of motion to remove a Governor or Non Executive Director (referred to as the respondent)
- 3.44 In addition to notice to the Governors in accordance with paragraphs 3.8 and 3.43, 28, 28 days notice of the meeting shall be given to the Respondent together with copies of the proposed resolution and any supporting papers.
- 3.45 The respondent may submit written representations in response to the proposed resolution not less than 10 days prior to the meeting at which the resolution is to be considered, and if so the Trust shall (if it is satisfied that the representations are proper, are not defamatory, and are not excessive in length) send copies of the representations to the Governors in advance of the meeting.
- 3.46 The Respondent may attend and speak at the meeting on the resolution.
- 3.47 Any resolution for the removal of a non-executive Director shall require the approval of three-quarters of the members of the Council of Governors.

#### **4. NOMINATIONS AND REMUNERATION COMMITTEE**

- 4.1 Council of Governors will establish a Nominations and Remuneration Committee to advise it on the appointment and remuneration of the Trust Chairman and Non-executive Directors.
- 4.2 When considering matters that relate to the appointment and remuneration of the Trust Chairman, the Committee will consist of three Public Governors, one Staff Governor, and one Appointed Governor. A Public Governor will Chair the Nominations and Remuneration Committee.
- 4.3 When considering matters that relate to the appointment and remuneration of the Non-executive Directors the Committee will consist of the Chairman, two Public Governors, one Staff Governor, and one Appointed Governor. The Chief Executive will attend in an advisory capacity only. The Chairman will chair the Nominations and Remuneration Committee.
- 4.4 If the number of Governors prepared to serve on the Nominations and Remuneration Committee is greater than the number of places available, the committee members will be selected by election by their peer Governors. Each member of the Appointment Committee will have one vote.
- 4.5 Subject to a maximum term of 8 years, save for the exceptions made in the constitution for the initial Chairman and Non-Executives, the current Chairman or a Non-Executive Director may stand for reappointment subject to a maximum of 2 terms of 3 years. If they are eligible for reappointment and thought fit for reappointment by the Nominations and Remuneration

Committee of Council of Governors, they may be reappointed by the Council of Governors

4.6 Subject to paragraph 4.5 above, The Chairman and other non-executive Directors are to be appointed by the Council of Governors following a process of open competition.

4.7 Six months before the end of the term of office of the Chairman or a non-executive Director (as the case may be), the Nominations and Remuneration Committee will begin the process of seeking a suitable replacement.

4.8 Nominations and Remuneration Committee shall:

4.8.1 having sought and having regard to the views of the Board of Directors prepare a specification that shall describe the role and responsibilities of the Chairman or Non-executive Director of the Trust and any particular skills, qualifications or experience that it would be essential or desirable for the Chairman or Non executive Director to possess:

- a. seek candidates by open advertisement and other such means as they consider appropriate
- b. interview candidates as they consider appropriate: and
- c. having regard to the specification make recommendations for appointment to the Council of Governors including recommendations about pay.

The Council of Governors or the Nominations and Remuneration Committee may seek such external advice and assistance as they consider necessary in connection with an appointment or remuneration.

4.9 The Standing Orders of the Council of Governors, as far as they are applicable, shall apply with appropriate alteration to meetings of the committee.

4.10 The committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Council), as the Council of Governors, shall decide subject to the provisions of the Constitution. Such terms of reference shall have effect as if incorporated into the Standing Orders.

4.11 **Confidentiality** - A member of the committee shall not disclose a matter dealt with by, or brought before, the committee without its permission until the committee shall have reported to the Council of Governors or shall otherwise have concluded on that matter.

4.12 A member of the committee shall not disclose any matter reported to or otherwise dealt with by the committee, notwithstanding that the matter has

been reported or action has been concluded, if the Council of Governors or the committee shall resolve that it is confidential.

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

**5.1 Declaration of Interests** - The Constitution requires Governors to declare pecuniary personal or family Interests (whether direct or indirect) which are relevant and material to the Council of Governors. All existing Governors should declare such interests. Any Governors appointed subsequently should do so on appointment.

**5.2** Interests which should be regarded as "relevant and material" are to be interpreted in accordance with guidance issued by the Independent Regulator of NHS Foundation Trusts and include:

- a) Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies).
- b) Ownership, part-ownership or directorship of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS.
- c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS.
- d) A position of authority in a charity or voluntary organisation in the field of health and social care.
- e) Any connection with a voluntary or other organisation contracting for NHS services.
- f) Research funding/grants that may be received by an individual or their department.
- g) Interests in pooled funds that are under separate management.
- h) Any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Gloucestershire Partnership NHS Foundation Trust, including but not limited to, lenders or banks.
- i) Membership of clubs, societies or organisations whose purpose may include furthering the business or personal interests of their members by undeclared or informal means. Such organisations include Masonic lodges and societies whose membership consists of professional and business people.
- j) Any other commercial interest in the decision before the meeting.

- 5.3 At the time the interests are declared, they should be recorded in the Council of Governors minutes as appropriate. Any changes in interests should be declared at the next Council of Governors meeting following the change occurring. It is the obligation of the Governors to inform the Secretary of the Trust in writing within 7 days of becoming aware of the existence of a relevant or material interest. The Secretary will amend the Register upon receipt within 5 working days.
- 5.4 Governor's' directorships of companies in 5.2(a) above or in companies likely or possibly seeking to do business with the NHS 5.2(b) above should be published in the board's annual report. The information should be kept up to date for inclusion in succeeding annual reports.
- 5.5 During the course of a Council meeting, if a conflict of interest is established, the Governor concerned should withdraw from the meeting and play no part in the relevant discussion or decision.
- 5.6 There is no requirement for the nature of Governor's' family or close personal relationships to be declared. However the interests of Governor's' family or close personal relationships in contracts should be declared.
- 5.7 If Governors have any doubt about the relevance or materiality of an interest, this should be discussed with the Chair or Trust Secretary. Influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.
- 5.8 **Register of Interests** - The Trust Secretary will ensure that a Register of Interests is established to record formally declarations of interests of Governors. In particular the Register will include details of all directorships and other relevant and material interests which have been declared, as defined in Standing Order 5.2.
- 5.9 The details of Governors' interests recorded in the Register will be kept up to date by the Trust Secretary who will ensure any changes to interests declared are incorporated promptly. The Council will review the register annually.
- 5.10 The Register will be available to the public and the Chair 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.

## **6. EXCLUSION OF CHAIR OR GOVERNOR IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST**

- 6.1 Subject to the following provisions of this Standing Order, if a Governor or the Chair has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Council of Governors at which the contract or other matter is the subject of

consideration, he/she shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

- 6.2 The Council of Governors may exclude the Chair or a Governor from a meeting of the Council of Governors while any contract, proposed contract or other matter in which he/she has a material interest, is under consideration.
- 6.3 For the purpose of this Standing Order the Chair or Governor shall be treated, subject to Standing Order 6.2 and Standing Order 6.6, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:
- (a) he/she, or a nominee of his/hers, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration;
  - or
  - (b) he/she is a partner of, or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration;
- and in the case of family or close personal relationships the interest of one party shall, if known to the other, be deemed for the purposes of this Standing Order to be also an interest of the other.
- 6.4 The Chair or Governor shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:
- (a) of his/her membership of a company or other body, if he/she has no beneficial interest in any securities of that company or other body;
  - (b) of an interest in any company, body or person with which he/she is connected as mentioned in Standing Order 6.3 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a Governor in the consideration or discussion of or in voting on, any question with respect to that contract or matter.
- 6.5 Where the Chair or a Governor has:
- (a) an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and

- (b) the total nominal value of those securities does not exceed £5,000 or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less and
- (c) if the share capital is of more than one class, the total nominal value of shares of any one class in which he/she has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class,

this Standing Order shall not prohibit him/her from taking part in the consideration or discussion of a contract or other matter or from voting on any question with respect to it without prejudice however to his/her duty to disclose his/her interest.

- 6.6 Standing Order 6 applies to a committee or sub-committee of the Council of Governors as it applies to the Council of Governors and applies to any member of any such committee or sub-committee (whether or not he/she is also a Governor) as it applies to a Governor.

## **7. STANDARDS OF BUSINESS CONDUCT**

- 7.1 **Interest of Governors in Contracts** - If it comes to the knowledge of a Governor, that a contract in which he/she has any pecuniary interest not being a contract to which he/she is himself/herself a party, has been, or is proposed to be, entered into by the Trust he/she shall, at once, give notice in writing to the Trust Secretary of the fact that he/she is interested therein. In the case of married persons, or persons living together as partners, the interest of one partner shall, if known to the other, be deemed to be also the interest of that partner.
- 7.2 A Governor must also declare to the Trust Secretary any other employment or business or other relationship of his/hers, or of a member of his/her family or of someone with whom he/she has a close personal relationship, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.
- 7.3 **Canvassing of, and Recommendations by, Governors in Relation to Appointments** - Canvassing of Governors directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.
- 7.4 A Governor shall not solicit for any person any appointment under the Trust or recommend any person for such appointment: but this paragraph of this Standing Order shall not preclude a Governor from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

- 7.5 Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.
- 7.6 **Relatives of Governors** - Candidates for any staff appointment shall when making application disclose in writing to the Trust whether they are related to any Governor. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him/her liable to dismissal.
- 7.7 Every Governor shall disclose to the Trust Secretary any relationship between himself/herself and a candidate of whose candidature that Governor is aware.
- 7.8 On election or appointment, Governors should disclose to the Trust whether they are related to any other Governor or holder of any office in the Trust.
- 7.9 Where the relationship of a Governor is disclosed, the Standing Order headed 'Exclusion of Chair or Governor in proceedings on account of pecuniary interest' (Standing Order 6) shall apply.
- 7.10 No formal definition of relationship is made. In considering whether a disclosure is required the influence rather than immediacy of the relationship is more important. In case of doubt disclosure should be made.

## 8. MISCELLANEOUS

- 8.1 **Standing Orders to be given to Governors** - It is the duty of the Trust Secretary to ensure that existing Governors and all new Governors are notified of and put into a position to understand their responsibilities within Standing Orders.
- 8.2 **Review of Standing Orders** – Standing Orders shall be reviewed by the Council of Governors at least once in each financial year and shall be amended if and as agreed appropriate by the Council of Governors. The Trust will maintain records necessary for the appropriate delegation and control of this process. The requirement for review extends to all documents having the effect as if incorporated in Standing Orders.
- 8.3 **Variation and Amendment of Standing Orders** - These Standing Orders shall be amended only if:
- a notice of motion under Standing Order 3.18 has been given; and
  - no fewer than two thirds of the total of the Governors present at a general meeting vote in favour of amendment; and
  - the variation proposed does not contravene a statutory provision, the constitution: and.
  - any variation or amendment is made known to the Independent Regulator of NHS Foundation Trusts.
- 8.4 **Declaration**-A governor elected to the Council by a public constituency, or a Class of the staff constituency may not vote at a meeting of the council

unless, within the previous 7 days, he has made a declaration in the form specified in Annex A stating which constituency or class he is a member of and is not prevented from being a member of the council by paragraph 8 of Schedule 7 to the 2006 Act or under this constitution

**DECLARATION**

Provision for the delivery to the Secretary at or immediately before the commencement of the meeting of a declaration in the form

“ To the Secretary of Gloucestershire Partnership NHS Foundation Trust

I..... [name]  
hereby declare that I am at the date of this declaration a member of the  
..... public constituency/ staff class, and I am not prevented from  
being a member of the Council of Governors by reason of:

My having been adjudged bankrupt or my estate having been sequestrated  
and in either case not having been discharged;

My having made a composition or arrangement with, or granted a trust  
deed for my creditors and have not been discharged in respect of it;

Within the preceding five years, my being convicted in the British Islands of  
any offence, and a sentence of imprisonment (whether suspended or not)  
for a period of three months or more (without the option of a fine) was  
imposed on me

Disqualification by the constitution.

Dated .....

Signed.....

**GLOUCESTERSHIRE PARTNERSHIP  
NHS FOUNDATION TRUST**

**STANDING ORDERS, RESERVATION AND  
DELEGATION OF POWERS FOR THE  
BOARD OF DIRECTORS**

**JULY 2007**

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## SECTION A

### 1. INTERPRETATION AND DEFINITIONS FOR STANDING ORDERS

- 1.1 Save as otherwise permitted by law, at any meeting the Chairman of the Trust shall be the final authority on the interpretation of Standing Orders on which s/he should be advised by the Chief Executive and Secretary to the Board.
- 1.2 Any expression to which a meaning is given in the National Health Service Act 2006 or in the Constitution of the Trust shall have the same meaning in these Standing Orders and Standing Financial Instructions and in addition:
- 1.2.1 "**Accounting Officer**" means the NHS Officer responsible and accountable for funds entrusted to the Trust. The officer shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the Chief Executive.
- 1.2.2 "**Trust**" means the Gloucestershire Partnership NHS Foundation Trust.
- 1.2.3 "**Board**" means the Trust Board as established pursuant to the Constitution collectively as a body.
- 1.2.4 "**Budget**" means a resource, expressed in financial terms, proposed by the Board for the purpose of carrying out, for a specific period, any or all of the functions of the Trust.
- 1.2.5 "**Budget holder**" means the director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation.
- 1.2.6 "**Chairman of the Board (or Trust)**" is the person appointed by Council of Governors to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression "the Chairman of the Trust" shall be deemed to include the Deputy-Chairman of the Trust if the Chairman is absent from the meeting or is otherwise unavailable.
- 1.2.7 "**Chief Executive**" means the chief officer of the Trust.
- 1.2.8 "**Commissioning**" means the process for determining the need for and for obtaining the supply of healthcare and related services by the Trust within available resources.
- 1.2.9 "**Committee**" means a committee or sub-committee created and appointed by the Trust.
- 1.2.10 "**Committee Members**" means persons formally appointed by the Board to sit on or to chair specific committees.
- 1.2.11 "**Contracting and procuring**" means the systems for obtaining the supply of goods, materials, manufactured items, services, building and engineering services, works of construction and maintenance and for disposal of surplus and obsolete assets.
- 1.2.12 "**Director of Finance**" means the Chief Financial Officer of the Trust.

- 1.2.13 **“Funds held on trust”** shall mean those funds which the Trust holds on date of incorporation, receives on distribution by statutory instrument or chooses subsequently to accept under powers derived under the 2006 Act. Such funds may or may not be charitable.
- 1.2.14 **Director** means executive or non-Executive Director of the Board as the context permits. Director in relation to the Board does not include its Chairman.
- 1.2.15 **Authorisation** means the Authorisation issued by Monitor pursuant to the 2006 Act
- 1.2.16 **“Constitution” means the constitution of the Trust as approved by Monitor and annexed to the Authorisation**
- 1.2.17 **“Nominated officer”** means an officer charged with the responsibility for discharging specific tasks within Standing Orders and Standing Financial Instructions.
- 1.2.18 **“Non-Executive Director”** means a Director of the Trust Board who is not an officer of the Trust and is appointed by the Council of Governors in accordance with the Constitution.
- 1.2.19 **“Officer”** means employee of the Trust or any other person holding a paid appointment or office with the Trust.
- 1.2.20 **“Executive Director”** means Director who is an officer of the Trust.
- 1.2.21 **“Trust Secretary”** means a person appointed to provide advice on corporate governance issues to the Board and the Chairman and monitor the Trust’s compliance with the law, Standing Orders, and Department of Health guidance.
- 1.2.22 **“SFIs”** means Standing Financial Instructions.
- 1.2.23 **“SOs”** means Standing Orders.
- 1.2.24 **“Deputy-Chairman”** means the non-Executive Director appointed by the Council of Governors to take on the Chairman’s duties if the Chairman is absent for any reason.
- 1.2.25 **“Monitor”** is the Independent Regulator of NHS Foundation Trusts, pursuant to Section 31 of the 2006 Act.
- 1.2.26 **“The 2006 Act”** means the National Health Service Act 2006
- 1.2.27 **Council of Governors** means the council established as the Board of Governors pursuant to the Constitution and the 2006 Act

## **SECTION B – STANDING ORDERS**

### **1. INTRODUCTION**

#### **1.1 Statutory Framework**

**The Trust is a public benefit corporation authorised by Monitor under the 2006 Act with effect from. It was previously the Gloucestershire Partnership NHS Trust established under the NHS and community care Act 1990 by statutory instrument no 4119 of 2001.**

- (1) The principal place of business of the Trust is Gloucestershire Partnership NHS Trust Headquarters, Rikenel, Montpellier, Gloucester. GL1 1LY.
- (2) NHS Foundation Trusts are governed by Act of Parliament, mainly the 2006 Act, and by the terms of the Authorisation issued by Monitor.
- (3) The functions of the Trust are conferred by this legislation.
- (4) As a statutory body, the Trust has specified powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable.
- (5) The Code of Accountability requires the Trust to adopt Standing Orders for the regulation of its proceedings and business. The Trust must also adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals.
- (6) The Trust will also be bound by such other statutes and legal provisions which govern the conduct of its affairs.

#### **1.2 NHS Framework**

- (1) The Code of Accountability requires that, inter alia, Boards draw up a schedule of decisions reserved to the Board, and ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior executives (a scheme of delegation). The code also requires the establishment of audit and remuneration committees with formally agreed terms of reference. The Code of Conduct makes various requirements concerning possible conflicts of interest of Directors.
- (2) The Code of Practice on Openness in the NHS and Freedom of Information Act, 2000 set out the requirements for public access to information on the NHS.

#### **1.3 Delegation of Powers**

The Trust has powers to delegate and make arrangements for delegation. The Standing Orders set out the detail of these arrangements. Under the Standing Order relating to the Arrangements for the Exercise of Functions (SO 5) the Trust is given powers to "make arrangements for the exercise, on behalf of the Trust of any of their functions by a committee, sub-committee or joint committee appointed by virtue of Standing Order 4 or by an officer of the Trust, in each case subject to such restrictions and conditions as the Trust thinks fit". Delegated Powers are incorporated in Section C (Scheme of Reservation and Delegation).

## **1.4 Integrated Governance**

Trust Boards are encouraged to develop integrated governance that will lead to good governance and to ensure that decision-making is informed by intelligent information covering the full range of corporate, financial, clinical, information and research governance. Guidance from the Department of Health on the move toward and implementation of integrated governance has been issued and will be incorporated in the Trust's Governance Strategy (see Integrated Governance Handbook 2006). Integrated governance will better enable the Board to take a holistic view of the organisation and its capacity to meet its legal and statutory requirements and clinical, quality and financial objectives. The Board has ultimate responsibility for the governance of the Trust

## **2. THE TRUST BOARD: COMPOSITION OF DIRECTORSHIP, TENURE AND ROLE OF DIRECTORS**

### **2.1 Composition of the Directorship of the Trust Board**

In accordance with the constitution the composition of the Board shall be:

- (1) The Chairman of the Trust
- (2) 5-7 non-Executive Directors
- (3) 5-7 Executive Directors (but not exceeding the number of non-Executive Directors) including:
  - the Chief Executive;
  - the Director of Finance;
  - one Director whom is to be a registered medical practitioner
  - one director whom is to be a registered nurse

### **2.2 Appointment of Chairman and Directors of the Trust Board**

- (1) Appointment of the Chairman and Non executive Directors is by the Council of Governors in accordance with the Constitution

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

- (1) The arrangements for tenure of office of the Chairman and Non Executive Directors and for the termination of the Chairman's and Non Executive Directors' terms of office are contained in the Standing Orders for the Council of Governors.

### **2.4 Appointment and Powers of Deputy-Chairman**

- (1) Subject to Standing Order 2.4 (2) below, the Council of Governors may appoint one of the Directors who is not also an Executive Director, to be Deputy-Chairman, for such period, not exceeding the remainder of his term as Non Executive Director of the Trust, as they may specify on appointing him.
- (2) Any Director so appointed may at any time resign from the office of Deputy-Chairman by giving notice in writing to the Chairman. The Council of Governors

may thereupon appoint another Director as Deputy-Chairman in accordance with the provisions of the Council of Governors' Standing Orders.

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

## **2.5 Joint Directors**

- (1) Where more than one person is appointed jointly as an Executive Director those persons shall count for the purpose of Standing Order 2.1 as one person.
- (2) Where the office of Director is shared jointly by more than one person:
  - (a) either or both of those persons may attend or take part in meetings of the Board;
  - (b) if both are present at a meeting they should cast one vote if they agree;
  - (c) in the case of disagreements no vote should be cast;
  - (d) the presence of either or both of those persons should count as the presence of one person for the purposes of Standing Order 3.11 Quorum.

## **2.6 Role of Board Members**

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

### **(1) Executive Directors**

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

### **(2) Chief Executive**

The Chief Executive shall be responsible for the overall performance of the executive functions of the Trust. He/she is the **Accounting Officer** for the Trust and shall be responsible for ensuring the discharge of financial obligations in line with the requirements of the NHS Foundation Trust Accounting Officer Memorandum for Foundation Trust Chief Executives.

### **(3) Director of Finance**

The Director of Finance shall be responsible for the provision of financial advice to the Trust and to its Board of Directors and for the supervision of financial

control and accounting systems. He/she shall be responsible along with the Chief Executive for ensuring the discharge of financial obligations.

**(4) Non-Executive Directors**

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

**(5) Chairman**

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

The Chairman shall liaise with the Trusts Nominations and Remuneration Committee appointed by the Council of Governors over the appointment of new Non Executive Directors and once appointed shall take responsibility either directly or indirectly for their induction, their portfolios of interests and assignments, and their performance.

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

**(6) Trust Secretary**

The Trust Secretary will provide advice to the Board and the Directors on corporate governance issues and will monitor the Trust's compliance with the law, Standing Orders, and Monitor's guidance.

**2.7 Corporate role of the Board**

- (1) All business shall be conducted in the name of the Trust.
- (2) All funds received in trust shall be held in the name of the Trust as corporate trustee.
- (3) The powers of the Trust established under statute shall be exercised by the Board meeting in public session except as otherwise provided for in Standing Order No. 3.
- (4) The Board shall define and regularly review the functions it exercises.

**2.8 Schedule of Matters reserved to the Board and Scheme of Delegation**

- (1) The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These powers and decisions are set out in the Scheme of Reservation and Delegation in Section C of these Standing Orders.

### **3. MEETINGS OF THE BOARD OF DIRECTORS**

#### **3.1 Calling meetings**

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

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

- (1) Before each meeting of the Board a written notice specifying the business proposed to be transacted shall be delivered to every Director, or sent by post to the usual place of residence of each Director, so as to be available to Directors at least three clear days before the meeting. The notice shall be signed by the Chairman or by an officer authorised by the Chairman to sign on their behalf. Want of service of such a notice on any Director shall not affect the validity of a meeting.
- (2) In the case of a meeting called by Directors in default of the Chairman calling the meeting, the notice shall be signed by those Directors.
- (3) No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under Standing Order 3.6.
- (4) A Director desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman and Trust secretary at least 10 clear days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 10 days before a meeting may be included on the agenda at the discretion of the Chairman.
- (5) Before each public meeting of the Board a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed at the Trust's principal offices at least three clear days before the meeting. Meeting details will also be made available on the Trust website.

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

The Agenda will be sent to Directors 6 days before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be despatched no later than three clear days before the meeting, save in emergency.

#### **3.4 Petitions**

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

### **3.5 Notice of Motion**

- (1) Subject to the provision of Standing Orders 3.7 'Motions: Procedure at and during a meeting' and 3.8 'Motions to rescind a resolution', a Director of the Board wishing to move a motion shall send a written notice to the Trust Secretary who will ensure that it is brought to the immediate attention of the Chairman.
- (2) The notice shall be delivered at least 10 clear days before the meeting. The Trust Secretary shall include in the agenda for the meeting all notices so received that are in order and permissible under governing regulations. This Standing Order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

### **3.6 Emergency Motions**

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

### **3.7 Motions: Procedure at and during a meeting**

#### **i) Who may propose**

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

#### **ii) Contents of motions**

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

- the reception of a report;
- consideration of any item of business before the Trust Board;
- the accuracy of minutes;
- that the Board proceed to next business;
- that the Board adjourn;
- that the question be now put.

#### **iii) Amendments to motions**

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

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

If there are a number of amendments, they shall be considered one at a time. When a motion has been amended, the amended motion shall become the

substantive motion before the meeting, upon which any further amendment may be moved.

iv) **Rights of reply to motions**

a) Amendments

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

b) Substantive/original motion

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

v) **Withdrawing a motion**

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

vi) **Motions once under debate**

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

- an amendment to the motion;
- the adjournment of the discussion, or the meeting;
- that the meeting proceed to the next business;
- that the question should be now put;
- the appointment of an 'ad hoc' committee to deal with a specific item of business;
- that a Director/ be not further heard;
- a motion resolving to exclude the public, including the press (see Standing Order 3.17).

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

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

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

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

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

### **3.9 Chairman of meeting**

- (1) At any meeting of the Trust Board the Chairman, if present, shall preside. If the Chairman is absent from the meeting, the Deputy-Chairman (if the Board has appointed one), if present, shall preside.
- (2) If the Chairman and Deputy-Chairman are absent, such Director (who is not also an Executive Director of the Trust) as the Directors present shall choose shall preside.

### **3.10 Chairman's ruling**

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

### **3.11 Quorum**

- (i) No business shall be transacted at a meeting unless at least one-third of the whole number of the Chairman and Directors (including at least one Director who is also an Executive Director of the Trust and one Director who is not) is present.
- (ii) An Officer in attendance for an Executive Director but without formal acting up status may not count towards the quorum.
- (iii) If the Chairman or Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of a declaration of a conflict of interest (see SO No.7) that person shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

### **3.12 Voting**

- (i) Save as provided in Standing Orders 3.13 - Suspension of Standing Orders and 3.14 - Variation and Amendment of Standing Orders, every question put to a vote at a meeting shall be determined by a majority of the votes of Directors present and voting on the question. In the case of an equal vote, the person presiding (i.e. the Chairman of the meeting) shall have a second, and casting vote.
- (ii) At the discretion of the Chairman all questions put to the vote shall be determined by oral expression or by a show of hands, unless the Chairman directs otherwise, or it is proposed, seconded and carried that a vote be taken by paper ballot.

- (iii) If at least one third of the Directors present so request, the voting on any question may be recorded so as to show how each Director present voted or did not vote (except when conducted by paper ballot).
- (iv) If a Director so requests, their vote shall be recorded by name.
- (v) In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.
- (vi) A manager who has been formally appointed to act up for an Executive Director during a period of incapacity or temporarily to fill an Executive Director vacancy shall be entitled to exercise the voting rights of the Executive Director.
- (vii) A manager attending the Trust Board meeting to represent an Executive Director during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Executive Director. An Officer's status when attending a meeting shall be recorded in the minutes.
- (viii) For the voting rules relating to joint Directors see Standing Order 2.5.

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

- (i) Except where this would contravene any statutory provision or the rules relating to the Quorum (SO 3.11), any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the whole number of the members of the Board are present (including at least one Director who is an Executive Director of the Trust and one Director who is not) and that at least two-thirds of those Directors present signify their agreement to such suspension. The reason for the suspension shall be recorded in the Trust Board's minutes.
- (ii) A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chairman and Directors of the Trust.
- (iii) No formal business may be transacted while Standing Orders are suspended.
- (iv) The Governance (Audit) Committee shall review every decision to suspend Standing Orders.

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

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

- upon a notice of motion under Standing Order 3.5;
- upon a recommendation of the Chairman or Chief Executive included on the agenda for the meeting;
- that two thirds of the Board members are present at the meeting where the variation or amendment is being discussed, and that at least half of the Trust's Non-Executive Directors vote in favour of the amendment;

- providing that any variation or amendment does not contravene a statutory provision  
the change is made known to the Independent Regulator of NHS Foundation Trusts.

### **3.15 Record of Attendance**

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

### **3.16 Minutes**

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

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

### **3.17 Admission of public and the press**

#### **(i) Admission and exclusion on grounds of confidentiality of business to be transacted**

Subject to the Chairman's decision as to whether a particular meeting should be open to the public, the public and representatives of the press may attend all meetings of the Trust, but shall be required to withdraw upon the Trust agreement of a motion of the Board as follows:

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

#### **(ii) General disturbances**

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

- 'That in the interests of public order the meeting adjourn for (the period to be specified) to enable the Trust Board to complete its business without the presence of the public'.

#### **(iii) Business proposed to be transacted when the press and public have been excluded from a meeting**

Matters to be dealt with by the Trust Board following the exclusion of representatives of the press, and other members of the public, as provided in (i) and (ii) above, shall be confidential to the Directors of the Board.

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

(iv) **Use of Mechanical or Electrical Equipment for Recording or Transmission of Meetings**

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

**3.18 Observers at Trust meetings**

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

**3.19 QUESTIONS FROM THE PUBLIC**

At each ordinary meeting of the Trust Board held in public there shall be up to 30 minutes set aside for written and oral questions from the public.

An oral question under this procedural standing order may be asked with the consent of the Chairperson and within the 30 minutes set aside for written and oral questions under this provision.

(i) **Written question for the Board Meeting**

People who live or work in the county or are affected by the work of the Trust may ask:

- the Chairperson of the Trust Board;
- the Chief Executive of the Trust;
- a Director of the Trust with responsibility; or
- a chairperson of any other Trust Board committee, whose remit covers the subject matter in question;

a question on any matter that is within the powers and duties of the Trust.

(ii) **Notice of questions**

A question under this procedural standing order may be asked in writing to the Chief Executive by 10 a.m. 4 clear working days before the date of the meeting.

**(iii) Response**

A written answer will be provided to a written question and will be given to the questioner and to members of the Trust Board before being read out at the meeting by the Chairperson or other Trust Director to whom it was addressed.

A copy of all written questions and written answers circulated at the meeting will be attached to the signed copy of the minutes of the meeting.

**(iv) Additional Questions or Oral Questions without Notice**

A member of the public who has put a written question may, with the consent of the Chairperson, ask an additional oral question on the same subject. The Chairperson may also permit an oral question to be asked at a meeting of the Trust Board without notice having been given.

An answer to an oral question will take the form of either:

- a direct oral answer; or
- if the information required is not easily available a written answer will be sent to the questioner and circulated to all Directors of the Trust Board.

Unless the Chairperson decides otherwise there will not be discussion on any public question.

**(v) Chairman's Discretion not to Respond to Questions**

Written questions may be rejected and oral questions need not be answered when the Chairperson considers that they:

- are not on any matter that is within the powers and duties of the Trust;
- are defamatory, frivolous or offensive;
- are substantially the same as a question that has been put to a meeting of the Trust Board in the past six months; or
- would require the disclosure of confidential or exempt information.

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

**4.1 Appointment of Committees**

The Trust Board may appoint committees of the Trust.

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

**4.2 Joint Committees**

- (i) Joint committees may be appointed by the Trust pursuant to regulation 10 of the partnership regulations with a local authority

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

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

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

#### **4.4 Terms of Reference**

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

#### **4.5 Delegation of powers by Committees to Sub-Committees**

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

#### **4.6 Approval of Appointments to Committees**

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

#### **4.7 Appointments for Statutory functions**

Where the Board is required to appoint persons to a committee and/or to undertake statutory functions, and where such appointments are to operate independently of the Board such appointment shall be made in accordance with any relevant regulations or guidelines.

#### **4.8 Committees established by the Trust Board**

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

#### 4.8.1 **Governance (Audit) Committee**

Having regard for the requirements of the NHS Codes of Conduct and Accountability, the 2006 Act, the Audit Code for NHS Foundation Trusts and the Code of Governance issued by Monitor, an Audit Committee will be established and constituted to provide the Trust Board with an independent and objective review on its financial systems, financial information and compliance with laws, guidance, and regulations governing the NHS. The Terms of Reference will be approved by the Trust Board and reviewed on a periodic basis.

#### 4.8.2 **Remuneration and Terms of Service Committee**

Having regard for the requirements of the Code of Governance of NHS Foundation Trusts issued by Monitor, an Appointments and Remuneration Committee will be established and constituted.

The committee will comprise the Chairman and the Non-Executive Directors

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

- (i) all aspects of salary (including any performance-related elements/bonuses);
- (ii) provisions for other benefits, including pensions and cars;
- (iii) arrangements for termination of employment and other contractual terms.
- (iv) the appointment of the Chief Executive may be proposed by this committee but is subject to the approval of the Council of Governors.

4.8.3 The Committee will also consider succession planning for Executive Directors of the Board

#### 4.8.4 **Trust and Charitable Funds Committee**

In line with its role as a corporate trustee for any funds held in trust, either as charitable or non charitable funds, the Trust Board will establish a Trust and Charitable Funds Committee to administer those funds in accordance with any statutory or other legal requirements or best practice required by the Charities Commission.

#### 4.8.5 **Other Committees**

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

#### 4.8.6 **Voting rights on Committees**

Only Directors who are members of Committees may vote.

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

### **5.1 Delegation of Functions to Committees, Officers or other bodies**

- 5.1.1 The Board may make arrangements for the exercise, on behalf of the Board, of any of its functions by a committee, sub-committee appointed by virtue of Standing Order 4, or by an officer of the Trust, or by another body as defined in Standing Order 5.1.2 below, in each case subject to such restrictions and conditions as the Trust thinks fit.

### **5.2 Emergency Powers and urgent decisions**

The powers which the Board has reserved to itself within these Standing Orders (see Standing Order 2.9) may in emergency or for an urgent decision be exercised by the Chief Executive and the Chairman after having consulted at least two Non-Executive Directors. The exercise of such powers by the Chief Executive and Chairman shall be reported to the next formal meeting of the Trust Board in public session for formal ratification.

### **5.3 Delegation to Committees**

- 5.3.1 The Board shall agree from time to time to the delegation of executive powers to be exercised by other committees, or sub-committees, or joint-committees, which it has formally constituted. The constitution and terms of reference of these committees, or sub-committees, or joint committees, and their specific executive powers shall be approved by the Board in respect of its sub-committees.
- 5.3.2 When the Board is not meeting as the Trust in public session it shall operate as a committee and may only exercise such powers as may have been delegated to it by the Trust in public session.

### **5.4 Delegation to Officers**

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

## **5.5 Duty to report non-compliance with Standing Orders and Standing Financial Instructions**

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

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

### **6.1 Policy statements: general principles**

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

### **6.2 Specific Policy statements**

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

- the Governance Policy for Trust staff;
- the staff Disciplinary and Appeals Procedures adopted by the Trust both of which shall have effect as if incorporated in these Standing Orders.

### **6.3 Standing Financial Instructions**

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

### **6.4 Specific guidance**

Notwithstanding the application of SO 6.1 above, these Standing Orders and Standing Financial Instructions must be read in conjunction with the following guidance:

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

## **7. DUTIES AND OBLIGATIONS OF BOARD MEMBERS AND SENIOR MANAGERS UNDER THESE STANDING ORDERS**

### **7.1 Declaration of Interests**

#### **7.1.1 Requirements for Declaring Interests and applicability to Board Members**

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

#### 7.1.2 **Interests which are relevant and material**

- (i) Interests which should be regarded as "relevant and material" are:
  - a) Directorships, including Non-Executive Directorships held in private companies or PLCs (with the exception of those of dormant companies);
  - b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
  - c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
  - d) A position of Authority in a charity or voluntary organisation in the field of health and social care;
  - e) Any connection with a voluntary or other organisation contracting for NHS services;
  - f) Research funding/grants that may be received by an individual or their department;
  - g) Interests in pooled funds that are under separate management.
- (ii) Any member of the Trust Board who comes to know that the Trust has entered into or proposes to enter into a contract in which s/he or any person connected with her/him (as defined in Standing Order 7.3 below and elsewhere) has any material interest, direct or indirect, the Board member shall declare his/her interest by giving notice in writing of such fact to the Trust Secretary as soon as practicable.

#### 7.1.3 **Advice on Interests**

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

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

#### 7.1.4 **Recording of Interests in Trust Board minutes**

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

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

### 7.1.5 **Publication of declared interests in Annual Report**

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

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

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

## 7.2 **Register of Interests**

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

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

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

## 7.3 **Exclusion of Chairman and Directors in proceedings on account of pecuniary interest**

### 7.3.1 **Definition of terms used in interpreting 'material' interest**

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

- (i) "spouse" shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse);
- (ii) "contract" shall include any proposed contract or other course of dealing.
- (iii) "material interest"

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

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

- b) he/she is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.

iv) Exception to Pecuniary interests

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

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

Provided however, that where paragraph (c) above applies the person shall nevertheless be obliged to disclose/declare their interest in accordance with Standing Order 7.1.2 (ii).

**7.3.2 Exclusion in proceedings of the Trust Board**

- (i) Subject to the following provisions of this Standing Order, if the Chairman or a Director of the Trust Board has any material interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust Board at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- (ii) The Trust Board may exclude the Chairman or a Director of the Board from a meeting of the Board while any contract, proposed contract or other matter in which he/she has a pecuniary interest is under consideration.
- (iii) Any remuneration, compensation or allowance payable to the Chairman or a Director shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- (iv) This Standing Order applies to a committee or sub-committee and to a joint committee or sub-committee as it applies to the Trust Board and applies to a member of any such committee or sub-committee (whether or not he/she is also a Director of the Trust) as it applies to a member of the Trust Board.

## **7.4 Standards of Business Conduct**

### **7.4.1 Trust Policy and National Guidance**

All Trust staff and Directors of must comply with the Trust's Governance Policy and the national guidance contained in HSG(93)5 on 'Standards of Business Conduct for NHS staff' (see SO 6.2).

### **7.4.2 Interest of Officers in Contracts**

- i) Any officer or employee of the Trust who comes to know that the Trust has entered into or proposes to enter into a contract in which he/she or any person connected with him/her (as defined in SO 7.3) has any pecuniary interest, direct or indirect, the Officer shall declare their interest by giving notice in writing of such fact to the Chief Executive or Trust Secretary as soon as practicable.
- ii) An Officer should also declare to the Chief Executive or Trust Secretary any other employment or business or other relationship of his/her, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.
- iii) The Trust will require interests, employment or relationships so declared to be entered in a register of interests of staff.

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

- i) Canvassing of Directors of the Trust Board or of any Committee of the Trust directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.
- ii) Directors of the Trust Board shall not solicit for any person any appointment under the Trust or recommend any person for such appointment; but this paragraph of this Standing Order shall not preclude a Director from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

### **7.4.4 Relatives of Directors or Officers**

- i) Candidates for any staff appointment under the Trust shall, when making an application, disclose in writing to the Trust whether they are related to any Director or the holder of any office under the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him liable to instant dismissal.
- ii) The Chairman and every Director and officer of the Trust shall disclose to the Trust Board any relationship between himself and a candidate of whose candidature that Director or officer is aware. It shall be the duty of the Chief Executive to report to the Trust Board any such disclosure made.

- iii) On appointment, Directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Trust whether they are related to any other Director or holder of any office under the Trust.
- iv) Where the relationship to a Director of the Trust is disclosed, the Standing Order headed 'Disability of Chairman and Directors in proceedings on account of pecuniary interest' (SO 7) shall apply.

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

### **8.1 Custody of Seal**

The common seal of the Trust shall be kept by the Chief Executive or a nominated Manager by him/her in a secure place.

### **8.2 Sealing of Documents**

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

### **8.3 Register of Sealing**

The Chief Executive shall keep a register in which he/she, or another manager of the Authority authorised by him/her, shall enter a record of the sealing of every document. Use of the seal will be reported to the Board quarterly.

### **8.4 Signature of documents**

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

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

## SECTION C - SCHEME OF RESERVATION AND DELEGATION

REF	THE BOARD	DECISIONS RESERVED TO THE BOARD
NA	THE BOARD	<p><b>General Enabling Provision</b></p> <p>The Board may determine any matter, for which it has delegated or statutory authority, it wishes in full session within its statutory powers.</p>
NA	THE BOARD	<p><b>Regulations and Control</b></p> <ol style="list-style-type: none"> <li>1. Approve Standing Orders (SOs), a schedule of matters reserved to the Board and Standing Financial Instructions for the regulation of its proceedings and business.</li> <li>2. Suspend Standing Orders.</li> <li>3. Vary or amend the Standing Orders.</li> <li>4. Ratify any urgent decisions taken by the Chairman and Chief Executive in public session in accordance with SO 5.2</li> <li>5. Approve a scheme of delegation of powers from the Board to committees.</li> <li>6. Require and receive the declaration of Board members' interests that may conflict with those of the Trust and determining the extent to which that Director may remain involved with the matter under consideration.</li> <li>7. Require and receive the declaration of officers' interests that may conflict with those of the Trust.</li> <li>8. Approve arrangements for dealing with complaints.</li> <li>9. Adopt the organisation structures, processes and procedures to facilitate the discharge of business by the Trust and to agree modifications thereto.</li> <li>10. Receive reports from committees including those that the Trust is required by regulation to take appropriate action on.</li> <li>11. Confirm the recommendations of the Trust's committees where the committees do not have executive powers.</li> <li>12. Approve arrangements relating to the discharge of the Trust's responsibilities as a corporate trustee for funds held on trust.</li> <li>13. Establish terms of reference and reporting arrangements of all committees that are established by the Board.</li> <li>14. Approve arrangements relating to the discharge of the Trust's responsibilities as a bailer for patients'</li> </ol>

REF	THE BOARD	DECISIONS RESERVED TO THE BOARD
		<p>property.</p> <p>15. Authorise use of the seal.</p> <p>16. Ratify or otherwise instances of failure to comply with Standing Orders brought to the Chief Executive's attention in accordance with SO 5.6.</p> <p>17. Discipline Directors of the Board or employees who are in breach of statutory requirements or SOs.</p>
NA	THE BOARD	<p><b>Appointments/ Dismissal</b></p> <ol style="list-style-type: none"> <li>1. Appoint a Non Executive Director to act as Senior Independent Director.</li> <li>2. Appoint and dismiss committees (and individual members) that are directly accountable to the Board.</li> <li>3. Appoint, appraise, discipline and dismiss Executive Directors (subject to SO 2.2).</li> <li>4. Confirm appointment of members of any committee of the Trust as representatives on outside bodies.</li> <li>5. Appoint, appraise, discipline and dismiss the Trust Secretary.</li> <li>6. Approve proposals for remuneration for staff not covered by the Remuneration Committee unless implementation is mandatory under national agreements.</li> </ol>
NA	THE BOARD	<p><b>Strategy, Plans and Budgets</b></p> <ol style="list-style-type: none"> <li>1. Define the strategic aims and objectives of the Trust.</li> <li>2. Approve proposals for ensuring quality and developing clinical governance in services provided by the Trust.</li> <li>3. Approve the Trust's Governance and Risk Management Strategies.</li> <li>4. Approve Outline and Final Business Cases for Capital Investment.</li> <li>5. Approve budgets.</li> <li>6. Approve annually Trust's proposed organisational development proposals.</li> <li>7. Ratify proposals for acquisition, disposal or change of use of land and/or buildings.</li> <li>8. Approve PFI proposals.</li> <li>9. Approve the opening of bank accounts.</li> <li>10. Approve proposals on individual contracts (other than NHS contracts) of a capital or revenue nature amounting to, or likely to amount to over £250,000 over a 3 year period or the period of the contract if longer.</li> </ol>

REF	THE BOARD	DECISIONS RESERVED TO THE BOARD
		11. 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 and Director of Finance (for losses and special payments) previously approved by the Board. 12. Approve individual compensation payments. 13. Approve proposals for action on litigation against or on behalf of the Trust. 14. Review use of NHSLA risk pooling schemes (LPST/CNST/RPST)
	THE BOARD	<b>Audit</b>  1. Receipt of the annual management letter received from the external auditor and agreement of proposed action, taking account of the advice, where appropriate, of the Audit Committee.  2. Receive an annual report from the Internal Auditor and agree action on recommendations where appropriate of the Audit Committee.
NA	THE BOARD	<b>Annual Reports and Accounts</b>  1. Receipt and approval of the Trust's Annual Report and Annual Accounts. 2. Receipt and approval of the Annual Report and Accounts for funds held on trust.
NA	THE BOARD	<b>Monitoring</b>  1. Receipt of such reports as the Board sees fit from committees in respect of their exercise of powers delegated. 2. Continuous appraisal of the affairs of the Trust by means of the provision to the Board such reports as the Board may require from directors, committees, and officers of the Trust. All monitoring returns required by the Department of Health and the Charity Commission shall be reported, at least in summary, to the Board. 3. Receive reports from Director of Finance (DoF) on financial performance against budget and Local Delivery Plan. 4. Receipt of reports submitted to the Independent Regulator of NHS Foundation Trusts in accordance with the Compliance Framework

*DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES*

REF	COMMITTEE	DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES
SFI 11.1.1	GOVERNANCE COMMITTEE	<p>The Committee will:</p> <ol style="list-style-type: none"> <li>1. Advise the Board on internal and external audit services;</li> <li>2. The Committee shall review the establishment and maintenance of an effective system of integrated governance, risk management and internal control, across the whole of the organisation's activities (both clinical and non-clinical), that supports the achievement of the organisation's objectives;</li> <li>3. Monitor compliance with Standing Orders and Standing Financial Instructions;</li> <li>4. Review schedules of losses and compensations and making recommendations to the Board.</li> <li>5. Review schedules of debtor/creditor balances &gt;£5k, &gt;6 months</li> <li>6. Review the annual financial statements prior to submission to the Board.</li> </ol>
SFI 20.1.2	APPOINTMENTS AND REMUNERATION COMMITTEE	<p>The Committee will:</p> <ol style="list-style-type: none"> <li>1. Determine for the Board the appropriate remuneration and terms of service for the Chief Executive, other Executive Directors and other senior employees including: <ul style="list-style-type: none"> <li>• All aspects of salary;</li> <li>• Provisions for other benefits, including pensions and cars;</li> <li>• Arrangements for termination of employment and other contractual terms;</li> </ul> </li> <li>2. Determine for the Board the remuneration and terms of service of executive directors and senior employees to ensure they are fairly rewarded for their individual contribution to the Trust - having proper regard to the Trust's circumstances and performance and to the provisions of any national arrangements for such staff;</li> <li>3. Ensure proper calculation and scrutiny of termination payments taking account of such national guidance as is appropriate, advise on and oversee appropriate contractual arrangements for such staff;</li> </ol>

<b>REF</b>	<b>COMMITTEE</b>	<b>DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES</b>
HSC 1999/065	PRACTICE STANDARDS COMMITTEE	See Terms of Reference.
HSC 1998/70 HSC1999/123	GOVERNANCE COMMITTEE	See Terms of Reference.
	CHARITABLE FUNDS COMMITTEE	See Terms of Reference
	MENTAL HEALTH ACT MANAGERS	See Terms of Reference
	BUSINESS DEVELOPMENT COMMITTEE	See Terms of Reference
	PERFORMANCE MANAGEMENT COMMITTEE	See Terms of Reference
	WORKFORCE COMMITTEE	See Terms of Reference
	INFRASTRUCTURE COMMITTEE	See Terms of Reference

## SCHEME OF DELEGATION DERIVED FROM THE NHS FOUNDATION TRUST ACCOUNTING OFFICER MEMORANDUM

REF	DELEGATED TO	DUTIES DELEGATED
7	CHIEF EXECUTIVE (CE)	Accountable through NHS Accounting Officer to Parliament for stewardship of Trust resources
9	CE AND DIRECTOR OF FINANCE (DOF)	Ensure the accounts of the Trust are prepared under principles and in such form as Monitor may with the approval of the Treasury direct. Accounts must disclose a true and fair view of the Trust's income and expenditure and its state of affairs.  Sign the accounts on behalf of the Board.
10	CHIEF EXECUTIVE	Sign a statement in the accounts outlining responsibilities as the Accounting Officer.  Sign a statement in the accounts outlining responsibilities in respect of Internal Control.
12 & 13	CHIEF EXECUTIVE	Ensure effective management systems that safeguard public funds and assist the Trust Chairman to implement requirements of corporate governance including ensuring managers: <ul style="list-style-type: none"> <li>• have a clear view of their objectives and the means to assess achievements in relation to those objectives</li> <li>• be assigned well defined responsibilities for making best use of resources</li> <li>• have the information, training and access to the expert advice they need to exercise their responsibilities effectively.</li> </ul>
12	CHAIRMAN	Implement requirements of corporate governance.
13	CHIEF EXECUTIVE	Achieve value for money from the resources available to the Trust and avoid waste and extravagance in the organisation's activities.  Follow through the implementation of any recommendations affecting good practice as set out on reports from such bodies as the Audit Commission and the National Audit Office (NAO).
15	DOF	Operational responsibility for effective and sound financial management and information.

REF	DELEGATED TO	DUTIES DELEGATED
15	CHIEF EXECUTIVE	Primary duty to see that DoF discharges this function.
16	CHIEF EXECUTIVE	Ensuring that expenditure by the Trust complies with Parliamentary requirements.
18	CE and DoF	Chief Executive, supported by Director of Finance, to ensure appropriate advice is given to the Board on all matters of probity, regularity, prudent and economical administration, efficiency and effectiveness.
19	CHIEF EXECUTIVE	If CE considers the Board or Chairman is doing something that might infringe probity or regularity, he should set this out in writing to the Chairman and the Board. If the matter is unresolved, he/she should ask the Governance Committee (Audit) to inquire and if necessary inform the Council of Governors, Monitor and the Department of Health.
21	CHIEF EXECUTIVE	If the Board is contemplating a course of action that raises an issue not of formal propriety or regularity but affects the CE's responsibility for value for money, the CE should draw the relevant factors to the attention of the Board. If the outcome is that he/she is overruled it is normally sufficient to ensure that the advice and the overruling of it are clearly apparent from the papers. Exceptionally, the CE should inform the Council of Governors, Monitor and the DH. In such cases, and in those described in paragraph 24, the CE should as a member of the Board vote against the course of action rather than merely abstain from voting.

*SCHEME OF DELEGATION DERIVED FROM THE CODES OF CONDUCT AND ACCOUNTABILITY*

<b>REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
1.3.1.7	BOARD	Approve procedure for declaration of hospitality and sponsorship.
1.3.1.8	BOARD	Ensure proper and widely publicised procedures for voicing complaints, concerns about misadministration, breaches of Code of Conduct, and other ethical concerns.
1.31.9 & 1.3.2.2	ALL BOARD DIRECTORS	Subscribe to the Governance Policy.
1.3.2.4	BOARD	Board members share corporate responsibility for all decisions of the Board.
1.3.2.4	CHAIR AND NON EXECUTIVE DIRECTORS	Chair and non-Executive Directors are responsible for monitoring the executive management of the organisation and are responsible to the Council of Governors for the discharge of those responsibilities.
1.3.2.4	BOARD	It is the Board's duty to: <ol style="list-style-type: none"> <li>1. act within statutory financial and other constraints;</li> <li>2. be clear what decisions and information are appropriate to the Board and draw up Standing Orders, a schedule of decisions reserved to the Board and Standing Financial Instructions to reflect these,</li> <li>3. ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior executives for the main programmes of action and for performance against programmes to be monitored and senior executives held to account;</li> <li>4. establish performance and quality measures that maintain the effective use of resources and provide value for money;</li> <li>5. specify its requirements in organising and presenting financial and other information succinctly and efficiently to ensure the Board can fully undertake its responsibilities;</li> <li>6. establish Audit and Remuneration Committees on the basis of formally agreed terms of reference that set out the Directorship of the sub-committee, the limit to their powers, and the arrangements for reporting back to the main Board.</li> </ol>

REF	DELEGATED TO	AUTHORITIES/DUTIES DELEGATED
1.3.2.5	CHAIRMAN	<p>It is the Chairman's role to:</p> <ol style="list-style-type: none"> <li>1. provide leadership to the Board;</li> <li>2. enable all Board Directors to make a full contribution to the Board's affairs and ensure that the Board acts as a team;</li> <li>3. ensure that key and appropriate issues are discussed by the Board in a timely manner,</li> <li>4. ensure the Board has adequate support and is provided efficiently with all the necessary data on which to base informed decisions;</li> <li>5. lead Non-Executive Board members through an Appointments and Remuneration Committee of the main Board on the appointment, appraisal and remuneration of the Chief Executive and (with the latter) other Executive Board Directors;</li> <li>6. appoint Non-Executive Directors to an audit committee of the main Board;</li> <li>7. advise the Council of Governors on the performance of Non-Executive Directors.</li> </ol>
1.3.2.5	CHIEF EXECUTIVE	<p>The Chief Executive is accountable to the Chairman and Non-Executive Directors of the Board for ensuring that its decisions are implemented, that the organisation works effectively, in accordance with Government policy and public service values and for the maintenance of proper financial stewardship. The Chief Executive should be allowed full scope, within clearly defined delegated powers, for action in fulfilling the decisions of the Board.</p> <p>The other duties of the Chief Executive as Accounting Officer are laid out in the NHS Foundation Trust Accounting Officer Memorandum.</p>
1.3.2.6	NON EXECUTIVE DIRECTORS	<p>Non-Executive Directors are appointed by Council of Governors to bring independent judgement to bear on issues of strategy, performance, key appointments and accountability through the Council of Governors and members to the local community.</p>
1.3.2.8	CHAIR AND DIRECTORS	<p>Declaration of conflict of interests.</p>
1.3.2.9	BOARD	<p>NHS Boards must respect agreements entered into by themselves or on their behalf and establish terms and conditions of service that are fair to the staff and represent good value for taxpayers' money.</p>

## SCHEME OF DELEGATION

SO REF	DELEGATED TO	AUTHORITIES/DUTIES DELEGATED
1.1	CHAIRMAN	Final authority in interpretation of Standing Orders (SOs).
3.1	CHAIRMAN	Call meetings.
3.9	CHAIRMAN	Chair all Board meetings and associated responsibilities.
3.10	CHAIRMAN	Give final ruling in questions of order, relevancy and regularity of meetings.
3.12	CHAIRMAN	Having a second or casting vote
3.13	BOARD	Suspension of Standing Orders
3.13	GOVERNANCE COMMITTEE (AUDIT)	Audit Committee to review every decision to suspend Standing Orders (power to suspend Standing Orders is reserved to the Board)
3.14	BOARD	Variation or amendment of Standing Orders
4.1	BOARD	Formal delegation of powers to sub committees or joint committees and approval of their constitution and terms of reference. (Constitution and terms of reference of sub committees may be approved by the Chief parent Committee provided no executive authority is delegated.)
5.2	CHAIRMAN & CHIEF EXECUTIVE	The powers which the Board has retained to itself within these Standing Orders may in emergency be exercised by the Chair and Chief Executive after having consulted at least two Non-Executive Directors.
5.4	CHIEF EXECUTIVE	The Chief Executive shall prepare a Scheme of Delegation identifying his/her proposals that shall be considered and approved by the Board, subject to any amendment agreed during the discussion.
5.6	ALL	Disclosure of non-compliance with Standing Orders to the Chief Executive as soon as possible.
7.1	THE BOARD	Declare relevant and material interests.

<b>SO REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
7.2	TRUST SECRETARY	Maintain Register(s) of Interests.
7.4	ALL STAFF	Comply with national guidance contained in HSG 1993/5 "Standards of Business Conduct for NHS Staff".
7.4	ALL	Disclose relationship between self and candidate for staff appointment. (CE to report the disclosure to the Board.)
8.1/8.3	CHIEF EXECUTIVE	Keep seal in safe place and maintain a register of sealing.
8.4	CHIEF EXECUTIVE/ EXECUTIVE DIRECTOR	Approve and sign all documents which will be necessary in legal proceedings.

## **ANNEX 8 – FURTHER PROVISIONS**

### **1. Relationship With Gloucestershire County Council**

1.1 Where the Trust has entered into a partnership agreement pursuant to the Health Act 1999 with Gloucestershire County Council:

- it will be contractually accountable to the County Council for the performance of County Council functions under such agreement
- it may establish a joint committee pursuant to regulation 10 of the partnership regulations, or such other board or officer group with delegated authority from the Board of Directors to oversee the arrangements as the Board of Directors see fit.

1.2 Subject to any delegation of functions to any group established under paragraph 1.1 above, the function of supervising the management of the County Council functions shall vest in the Board of Directors or a single director nominated by the Board.

1.3 In the event that any such partnership agreement establishes a pooled fund within the meaning of the partnership regulations, then subject to the terms of the agreement and the provisions of the Partnership regulations regarding the role of the Pooled Fund Manager. The responsibility for any pooled fund hosted by the Trust shall vest in the Board of Directors.

### **2. Membership**

2.1 It is the responsibility of members to ensure their eligibility and not the Trust, but if the Trust is on notice that a Member may be disqualified from membership, they shall carry out all reasonable enquiries to establish if this is the case.

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

3.1 A member shall cease to be a member if he-

- resigns by notice to the Secretary
- ceases to fulfil the requirements of paragraph 6.1-6.5 or 7.1-7.6 of the Constitution;

### **4. Dispute resolution procedures**

4.1 In the event of any dispute about the entitlement to membership the dispute shall be referred to the Trust Secretary who shall make a determination on the point in issue. If the member is aggrieved at the decision of the Trust Secretary he may appeal in writing within 14 days of the Secretary's decision to the Council of Governors whose decision shall be final.

4.2 In the event of dispute between the Council of Governors and the Board of Directors

- In the first instance the Chairman on advice of the Trust Secretary, and such other advice as the Chairman may see fit to obtain, shall seek to resolve the dispute.
- If the Chairman is unable to resolve the dispute he shall appoint a special committee comprising equal numbers of Directors and Governors to consider the circumstances and to make recommendations to the Council of Governors and the Board of Directors with a view to resolving the dispute.
- If the recommendations (if any) of the special committee are unsuccessful in resolving the dispute, the Chairman may refer the dispute to an external mediator appointed by the Centre for Dispute Resolution or such other organisation as he considers appropriate.

**5. Indemnity**

- 5.1 Members of the Council of Governors and Board of Directors 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 Council or Board functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust.

**6. Amendment of the constitution**

- 6.1 The Trust may make amendments to this Constitution with the approval of the Independent Regulator.

No proposals for amendment of this Constitution will be put to the Independent Regulator unless it has been approved by the Board of Directors and three quarters of the Council of Governors.

**7. Dissolution of the Trust**

- 7.1 The Trust may not be dissolved except by order of the Secretary of State for Health, in accordance with the 2006 Act.