

**Agenda for a Council of Governors meeting, to be held on 28 April 2014 at
13:30 in the Conference Room, Trust Headquarters, Marlborough Street,
Bristol, BS1 3NU**

<i>Item</i>	<i>Sponsor</i>	<i>Page</i>	<i>Time</i>
1. Chairman's Introduction and Apologies To note apologies for absence received. To note the outcome of the election for Lead Governor and Deputy Lead Governor	Chairman		13:30
2. Declarations of Interest In accordance with Trust Standing Orders, all members present are required to declare any conflicts of interest with items on the Meeting Agenda.	Chairman		13:35
3. Minutes and Actions from the Previous Meeting To consider the minutes of the meeting of the Council of Governors on 30 January 2014 for approval and the status of Actions agreed.	Chairman	3	13:40
4. Chief Executive's Report and Strategic Outlook To receive a verbal update from the Chief Executive to note .	Chief Executive		13:45
<i>Governors' Questions</i>			
5. Governors' Questions arising from the meeting of the Trust Board of Directors To respond to questions arising from matters of business on the agenda of the preceding meeting of the Trust Board of Directors.	Chairman		14:00
6. Governors' Log of Communications To note the current position of the Governors' Log of Communications.	Chairman	15	14:20
<i>Statutory and Foundation Trust Constitutional Duties</i>			
7. Foundation Trust Constitution To consider changes to the Foundation Trust Constitution for approval.	Trust Secretary	17	14:25
8. Nominations and Appointments Committee report To receive this report to note .	Chairman	88	14:40
9. Project Focus Group Meeting Accounts To receive the following meeting accounts to note : a. Annual Plan Project Focus Group b. Quality Project Focus Group c. Foundation Trust Constitution Project Focus Group	Chairman	89	14:45

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<i>Item</i>	<i>Sponsor</i>	<i>Page</i>	<i>Time</i>
<i>Members' Questions</i>			
10. Foundation Trust Members' Questions To receive questions from Foundation Trust members present.	Chairman		14:55
<i>Close</i>			
11. Date of Next Meeting The next meeting of the Council of Governors will be held on 30 July 2014 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU.			

**Minutes for a Council of Governors meeting held on 30 January 2014 at 13:30
in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1
3NU**

Governors Present	
<ul style="list-style-type: none"> • Sue Silvey – Lead Governor and Public Governor • Anne Ford – Public Governor • Clive Hamilton – Public Governor • Mo Schiller – Public Governor • Glyn Davies – Public Governor • Tony Tanner – Public Governor • Pauline Beddoes – Public Governor • Tony Rance – Public Governor • Anne Skinner – Patient Governor • Pam Yabsley – Patient Governor • Peter Holt – Patient Governor 	<ul style="list-style-type: none"> • John Steeds – Patient Governor • Angelo Micciche – Patient Governor • Philip Mackie – Patient Governor • Wendy Gregory – Patient Governor • Florene Jordan – Staff Governor • Ben Trumper – Staff Governor • Ian Davies – Staff Governor • Jan Dykes – Staff Governor • Joan Bayliss – Partnership Governor • Jeanette Jones – Partnership Governor • Sylvia Townsend – Appointed Governor
Board Members Present	
<ul style="list-style-type: none"> • John Savage – Chairman • Robert Woolley – Chief Executive • Sue Donaldson – Director of Workforce & Organisational Development • Paul Mapson – Director of Finance • James Rimmer – Chief Operating Officer • Sean O’Kelly – Medical Director • Carolyn Mills – Chief Nurse 	<ul style="list-style-type: none"> • Lisa Gardner – Non-executive Director • Alison Ryan – Non-executive Director • David Armstrong – Non-executive Director • Iain Fairbairn – Non-executive Director • Guy Orpen – Non-executive Director • Julian Dennis – Non-executive Observer • Jill Youds – Non-executive Observer
Others Present or In Attendance	
<ul style="list-style-type: none"> • Charlie Helps – Trust Secretary • Xanthe Whittaker – Head of Performance Assurance and Business Intelligence / Deputy Director of Strategic Development 	<ul style="list-style-type: none"> • Sarah Murch – Membership Administrator/PA (minute taker) • Several members of University Hospitals Bristol NHS Foundation Trust
<i>Item</i>	<i>Action</i>
<p>1. Chairman’s Introduction and Apologies Apologies for absence were received from: Governors: Lorna Watson, Ken Booth, Marc Griffiths, Mani Chauhan, Terrence Flawn, Elliott Westhoff, Tim Peters, Sue Milestone, Brenda Rowe, and Jim Petter. Trust Board and Others: Deborah Lee, John Moore and Emma Woollett. <i>Apologies for absence were noted.</i> The Chairman, John Savage, welcomed those present to the meeting. He noted that Jan</p>	

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<p>Dykes, Staff Governor, would be retiring from the Trust in April, and as this was her last Council of Governors meeting, he thanked her for her valuable contribution during her time in office.</p>	
<p>2. Declarations of Interest</p> <p>In accordance with Trust Standing Orders, all members present were required to declare any conflicts of interest with items on the Meeting Agenda.</p> <p><i>There were no declarations of interest.</i></p>	
<p>3. Minutes and Actions from the Previous Meeting</p> <p>The Council of Governors considered the minutes of the meeting of the Council of Governors on 31 October 2013 and noted the status of Actions agreed.</p> <p><i>The Council of Governors approved the minutes as an accurate record of the meeting.</i></p>	
<p>4. Chief Executive's Report and Strategic Outlook</p> <p>Governors received a verbal update from the Chief Executive, Robert Woolley, to note.</p> <p>Better Care Fund</p> <p>Robert advised governors of a strategic change in national policy that would have a very significant local impact: the Better Care Fund. This was a pooled fund of £2.8bn, created between the NHS and Social Services with the specific intention of transforming services to provide care closer to home, to encourage people to look after their own health, and to reduce reliance on acute hospitals as the main provider of services and the main consumer of health service funding.</p> <p>Robert explained that only a very small amount of the pooled fund was new money. Most of it was existing money which was either already committed through the local government route to related projects, or NHS money that was already invested in services. Money would therefore be taken from Clinical Commissioning Group budgets, particularly from acute hospitals.</p> <p>UH Bristol had now been asked to join the Programme Board for the Better Care Fund, which reports to the Health and Wellbeing Board at Bristol City Council. There was a short timescale for development of the plan, with the first submission deadline being the 11th February, and further submission deadlines between February and June, to fit with the planning timetables from NHS England, the Trust Development Authority and Monitor.</p> <p>Robert explained that this could be seen as the policy mechanism through which the very severe consequences of the national funding squeeze on the public sector was intended to be addressed. Local communities were being challenged to come up with transformational solutions that were going to deliver on the promises that had been made for decades about joined-up care to keep people as close to home as possible and thus reduce the increase of acute attendance and admissions. It corresponded with the findings of the Bristol Acute Services review, and would be very challenging, but was very important.</p> <p>Alongside this initiative, Robert also reported that UH Bristol had been working on its relationship with Bristol Community Health, particularly regarding the development of</p>	

greater out-of-hospital capacity to deal with the current winter pressures. At a recent Board to Board meeting between Bristol Community Health and UH Bristol, the two Boards had jointly committed to the principle of looking at how they could pool funds to partner on initiatives to improve discharge from hospital and avoiding admission in the first place.

Strategic Review

Robert noted that governors were gaining in-depth insight into the UH Bristol strategic review through their attendance at meetings of the Annual Plan Project Focus Group.

Inquests into children's heart surgery at Bristol Royal Hospital for Children

Robert reported that the inquest had concluded last week into the death of 4-year old Sean Turner, who had died after a procedure on Ward 32 in March 2012. Her Majesty's Coroner had concluded that there were "lost opportunities" when managing the patient's post-operative care in two specific areas: firstly, the anti-coagulation of his blood and secondly, recording the consideration of whether another surgical procedure might have been employed to help manage those complications as they emerged.

Robert gave his assurance that the Trust would undertake a review to ensure that it learnt from the lessons. Regarding the first area, he reported that the Trust's policy and practice in anti-coagulation had been completely revised some time ago as a result of the Child Death Review into Sean's death and the coroner had acknowledged the changes that had been made and did not make recommendations for further actions. She had also said quite clearly that the evidence did not show that there was a failure to provide basic care on the ward. Robert explained the Trust's efforts to handle the significant media attention surrounding the inquest and to support the staff involved as best it could. He added that he and the other directors were intending to talk to staff directly the following week to hear their concerns. He advised governors that there would be other inquests coming up related to heart services, and so media attention would continue. He apologised for the lost opportunities identified, but emphasised that the Trust was doing everything it could to restore confidence and to learn from this incident.

Governors' Questions

- a) John Steeds asked how the money from the Better Care Fund would be apportioned. Robert responded that the figure for Bristol was around £30 million, only £1.7m of which was new money. The rest would need to be released from existing commitments in order to be re-invested. John further asked whether the Trust would need to make bids to the fund, or whether it was already decided how the money would be spent. Robert responded that while it looked as though there was a bidding round because there was an allocation and an approval process, the money was in fact already in the control of the NHS and Social Services, this being the challenging point.
- b) John Steeds also asked whether the local members of the Better Care Fund would take the decision as to how the money should be spent. Robert responded in the affirmative, adding that the plan would have to be sanctioned by the

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<p>Health and Wellbeing Board. In response to a question from John Steeds about UH Bristol’s representation on the Better Care Fund Programme Board, Robert responded that he had attended a meeting laying out the principles and the vision for the local approach and James Rimmer would have the Executive leadership going forward.</p> <p>c) Pauline Beddoes asked whether UH Bristol had staff based in the Emergency Department whose role it was to speak to elderly patients to ensure that appropriate home care was sourced for them. James Rimmer, Chief Operating Officer, responded that there was a team of community partners who talked to patients in the Emergency Department and Medical Assessment Unit before admission, and that the Trust also worked with the British Red Cross who provided a service to ensure people were able to get home.</p> <p>d) Ben Trumper asked for more information about the staff meeting regarding the inquests. Robert replied that it would be a face-to-face meeting to allow staff as a group to talk to him about how they were feeling and how they feel they were supported, and to discuss any concerns. He emphasised that staff had also been actively supported during the process on an ongoing basis.</p> <p><i>There being no further questions or discussion, the Chief Executive’s report was noted.</i></p>	
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Governors’ Questions

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5. Governors’ Questions arising from the meeting of the Trust Board of Directors

Governors asked questions arising from matters of business on the agenda of the preceding meeting of the Trust Board of Directors.

- a) Wendy Gregory welcomed the achievement of the 62-day Referral to Treatment cancer target and asked how this achievement would be sustained. James Rimmer responded that the Trust was struggling with the target for Quarter 4, which was particularly difficult to achieve due to complicated pathways tracking through from other Trusts throughout the period of Christmas breaks. In addition, elective cancellations were causing capacity issues. The Trust was attempting to examine the pathways to address underlying issues, such as how to identify and shorten the most complex period. He undertook to keep governors informed on the progress of this work.
- b) Wendy Gregory asked for assurance that the shortage of clinical nurse specialists would be resolved as a priority. James Rimmer responded that a business planning process was underway and that plans would be signed off at the end of March and implemented afterwards. Xanthe Whittaker, Head of Performance Assurance and Business Intelligence and Deputy Director of Strategic Development, added that the UH Bristol had been carrying out benchmarking with other organisations that managed lung cancer pathways with a high volume of tertiary work, and as a result was sending a team to visit Sheffield Teaching Trust to understand what could be learnt from them.
- c) Clive Hamilton asked for assurance regarding the targets for Non-purposeful Omitted Doses of Critical Medication, which the Trust failed to meet in December. He enquired about the sample reviewed, and whether it was known

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<p>what percentage of total critical medicine doses the sample was. Sean O’Kelly, Medical Director responded that he could find out the exact figure, but assured Clive that 999 patients surveyed over 3 days constituted a reasonable sample size. Clive sought greater reassurance on the issue of omitted doses, and also on the question of drugs not being available. Robert Woolley and Sean O’Kelly will consider how they could give governors insight into the steps taken to address this, and will report back.</p>	<p>Medical Director</p>
<p>d) John Steeds asked for clarification on Dr Pitcher’s role in concluding the work of the Partnership Programme Board. Robert explained that Dr Pitcher was the joint clinical director for histopathology services across both UH Bristol and North Bristol Trust who had been charged with developing an option appraisal for delivering the recommendation from the “Mishcon Inquiry” (the 2010 Independent Inquiry into Histopathology Services in Bristol) about integration of those two departments. In Bristol it had originally been expected that the Severn Pathology review would deliver this objective on its own, but as this had not happened, it was therefore incumbent upon both Trusts to reconsider what they were doing with the Mishcon recommendations. Dr Pitcher was finishing the work on this and would bring it back to the divisional structure and the Executive team in the next few weeks.</p>	
<p>e) John Steeds referred to the Strategic Development Quarterly Status Report of capital projects, in relation to the Centralisation of Specialist Paediatrics, and enquired what the timescale was for resolving the risk if the out-of-hours theatre model could not be achieved within the context of available resources. Robert responded that the issues relating to theatre staffing and cover for theatre had been resolved. What was described in the report was a clinical aspiration for a premium level of cover which the Trust Board’s analysis had indicated was not warranted. They had therefore gone back into discussion with the clinical leaders and had secured their agreement for a different model of clinical cover.</p>	<p>All Executive Sponsors and Report Authors Trust Secretariat</p>
<p>f) John Steeds and John Savage both requested that authors of Board reports use fewer acronyms.</p>	
<p>g) John Steeds requested a list of current executive directors and clinical directors of each division, including each executive member associated with the transformation work-streams.</p>	
<p>h) Wendy Gregory asked how the Trust was dealing with the issue of patients admitted with their own medication. Medication was of course removed on admission, as patients were not allowed to self-medicate, however, she was concerned that there had been instances in which there had then been a substantial time delay before new medication was given, which could cause significant problems particularly in regard to pain control medication. Sean O’Kelly agreed that this was a valid point and that he would discuss it with those responsible for drug administration policy.</p>	<p>Medical Director Head of Performance Assurance and Business Intelligence</p>
<p>i) Anne Ford enquired whether the opening hours of Boots Pharmacy in the BRI Welcome Centre would be extended to cover more of the weekend. Xanthe Whittaker agreed to find out.</p>	
<p>j) Mo Schiller enquired whether patients could be admitted directly to the new elderly admissions unit instead of to the Emergency Department. James Rimmer</p>	

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<p>responded that this was possible, but that there were sometimes difficulties in doing this when there was a lack of flow through the hospital. Part of the work of the Patient Flow project was to ensure that this happened.</p> <p>k) Mo Schiller requested an update on staffing levels for the new Bristol Children’s Hospital theatre. Robert responded that the recruitment process was now in place for the recruitment of new theatre nurses and operating department practitioners for children’s theatres to staff new burns and plastics neuro-theatres. However, a risk had been highlighted to the Board about consultant cover for the burns and plastics service itself once it was dis-aggregated between adults and children. The problem in terms of the cover rested with the adult side at North Bristol Trust. Unless they increased the staffing levels, the same pool of consultants would have to be in the same place at once, which was why the issue had been escalated to both Chief Executives and both were working on immediate resolution.</p> <p>l) Clive Hamilton enquired whether there was a work-stream to deal with Monitor’s stated plans to increase its list of governance concerns to include the satisfaction rate of staff and patients, turnover rates of staff, and levels of temporary staff. Xanthe Whittaker responded that at this stage Monitor’s conclusions were not yet known: no further details had been forthcoming since guidance was published in August about their intentions. Until UH Bristol knew what levels were going to be set it was difficult to take action at this stage. Clive also noted that the Trust’s staff turnover rate had increased over the last 3 years. Sue Donaldson, Director of Workforce & Organisational Development, responded that while it was not high enough to warrant intervention, the Trust should still be looking at it.</p> <p>m) Tony Rance asked the Chairman and Chief Executive not to underestimate the importance of being more visible round the Trust, as it would be well-received by staff. Robert Woolley and John Savage agreed that they would try to do more in this regard.</p> <p>n) Angelo Micciche requested an action plan of the learning from inquests. This was agreed.</p> <p><i>There were no further questions.</i></p>	<p align="center">Chief Executive</p> <p align="center">Chief Nurse</p>
<p>6. Governors’ Log of Communications</p> <p>Governors received the current position of the Governors’ Log of Communications to note.</p> <p>John Savage explained that the aim of the Governors’ Log was to receive governors’ questions and have them appropriately and properly answered. He added that the Trust would in future be publishing the Governors’ Log with papers for the Council of Governors and the Trust Board of Directors online. He would ensure that all members of the Board including the Non-executive Directors received a copy of the questions and the answers so that they could be discussed at Chairman’s Counsel meetings which he encouraged governors to use to ask strategic questions, rather than operational detail queries.</p> <p><i>There being no further questions or discussion, the current position of the Governors’ Log of Communications was noted.</i></p>	

<i>Statutory and Foundation Trust Constitutional Duties</i>	
<p>7. Nominations and Appointments Committee report Governors received this report to note. <i>There being no questions or discussion, the report from the Nominations and Appointments Committee was noted.</i></p>	
<p>8. Governor Development Seminar report Governors received this report to note. Sue Silvey reported that governors had received an excellent briefing from Giles Peel, Governance Advisory Practice Adviser at DAC Beachcroft, at the last Governor Development Seminar, during which he had discussed the importance of the governors’ relationship with Non-executive Directors in terms of holding the Trust Board to account for the performance of the Trust Board of Directors. In the second part of the seminar, a representative from the Trust’s Complaints team had briefed governors on the Trust’s complaints process, particularly emphasising that governors should not become involved in complaints personally, but should always refer complainants to the Complaints team. John Steeds asked for a copy of Giles Peel’s presentation to be circulated. <i>There being no further questions or discussion, the Governor Development Seminar report was noted.</i></p>	Trust Secretariat
<p>9. Project Focus Group Meeting Accounts To receive the following meeting accounts to note:</p> <p>a. Annual Plan Project Focus Group Anne Ford, Governor Lead for the Annual Plan Project Focus Group, reported back from the last meeting of the group, which had included a report from David Relph about the progress of the Trust’s Five-Year strategy and an update on the Annual Plan.</p> <p>b. Quality Project Focus Group Clive Hamilton, Governor Lead for the Quality Project Focus Group, reported back from the two meetings that the group had held since the last Council of Governors meeting. The group had discussed the Trust Board Quality and Performance Report, welcomed improvements in Fractured Neck of Femur targets, had received an update on the Histopathology service in relation to the Mishcon recommendations, and had also received information about recruitment and training in respect of the transfer of specialist paediatrics. There had been a discussion about Non-purposeful Omitted Doses of Critical Medication, and also the Trust’s response to the Francis Report and an update on Sterile Supplies. Governors had received presentations on the new CQC inspection system, Volunteering at the Trust, Transforming Care, Complaints Handling and the Clwyd Report. The “Keogh Seven Day Services” report was also a topic for discussion. In response to a query from Clive about the progress of implementing Seven Day Services, Robert said that it was not yet complete: it was an incremental progression as it had significant implications for working patterns and funding. He added that the Transformation Team was working on a specific piece of diagnostic work about seven-day working and the</p>	

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<p>Keogh report.</p> <p>Clive encouraged all governors to attend the next Quality Project Focus Group meeting at 14:00-16:00 on 5 March 2014 which would include a presentation on the 62-day cancer pathway by Xanthe Whittaker.</p> <p>c. Foundation Trust Constitution Project Focus Group (including report from Constitution Task and Finish Group and the timeline for revisions to the Constitution.)</p> <p>It was noted that the Task and Finish Group had produced recommendations. The process of rewriting the constitution was now underway, and the proposed changes to the constitution would be published in due course. Wendy Gregory asked for a copy of the Task and Finish recommendations.</p> <p><i>There being no further questions or discussion, the meeting accounts were noted.</i></p>	<p align="center">Trust Secretariat</p>
<p align="center"><i>Members' Questions</i></p>	
<p>10. Foundation Trust Members' Questions</p> <p>To receive questions from Foundation Trust members present.</p> <p>a) Derrick Bookham, a Foundation Trust member, spoke of an instance of medicine belonging to a patient being removed on admission and then apparently lost. Robert Woolley apologised and reiterated that, as earlier requested by Wendy Gregory, drug administration policies would be reviewed.</p> <p>b) Derrick Bookham asked that the Trust consider the impression that was given by staff smoking in uniform outside the hospitals. Robert responded that regular reminders were issued to staff, and that the rules would be reinforced. The Trust would also be reconsidering its own policies in light of a recent announcement on this issue by the National Institute of Clinical Excellence.</p> <p>c) A member (anonymised) raised an issue about an appointment. Their details would be taken so that it could be followed up afterwards.</p> <p>d) Jeanette Jones announced that there were still spaces for people to attend the 'Dare to Care' study day organised by the Royal College of Nursing on 20 February 2014 and asked governors to contact her if they were interested.</p>	
<p><i>There being no further questions, the Chairman thanked everyone for attending and closed the meeting.</i></p>	
<p>Date of Next Meeting: The next meeting of the Council of Governors will be held on 28 April 2014 at 13:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU.</p>	

Action Log for a Council of Governors Meeting to be held on 28 April 2014 at 13:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU

Ref	Date of meeting originating action	Minute number	Description	Action by	Date to come back to Council of Governors	Date Action completed	Comments
1	30/01/2014	Item 5c	Clive sought greater reassurance on the issue of Non-purposeful Omitted Doses of Critical Medication, and also on the question of drugs not being available. Robert Woolley and Sean O'Kelly will consider how they could give governors insight into the steps taken to address this, and will report back.	Medical Director	28/04/2014	05/03/14	Feedback provided to Governor's Quality Group by Emma Redfern, Associate Medical Director at March 2014 meeting.
2	30/01/2014	Item 5f	John Steeds and John Savage both requested that authors of Board reports refrain from using acronyms.	All Executive Sponsors and Report Authors	ongoing		The Trust Secretariat has issued guidance in support of this instruction to all report authors.
3	30/01/2014	Item 5g	John Steeds requested a list of current executive directors and clinical directors of each division, including each executive member associated with each of the transformation work-streams.	Trust Secretariat	28/04/2014	13/3/2014	Divisional structure emailed to all governors on 13/3. Executive Leads for Transformation work-streams emailed to all governors 24/1 as part of Quality Project Focus Group presentation. Re-sent to John Steeds 10/4.
4	30/01/2014	Item 5h	Wendy Gregory asked how the Trust was dealing with the issue of patients admitted with their own medication. Medication was of course removed on admission, as patients were not allowed to self-medicate, however, she was concerned that there had	Medical Director	28/04/2014		Written response provided to Governors 22/04/14

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			been instances in which there had then been a substantial time delay before new medication was given, which could cause significant problems particularly in regard to pain control medication. Sean O'Kelly agreed that this was a valid point and that he would discuss it with those responsible for drug administration policy.				
5	30/01/2014	Item 5i	Anne Ford enquired whether the opening hours of Boots Pharmacy in the Bristol Royal Infirmary Welcome Centre would be extended to cover more of the weekend. Xanthe Whittaker agreed to find out.	Director of Strategic Development	28/04/2014	22 April 2014	A full response has been provided to AF. In summary, the Boots Pharmacy was established to support outpatient prescribing and this was the basis upon which the service was tendered and the contract awarded. The opening hours reflect the times of operation of outpatient services (until 7pm Monday to Friday and 1pm Saturdays). Other departments such as the Emergency Department and wards continue to access the Bristol Royal Infirmary pharmacy at weekends until 3pm Saturday and Sunday and outside of these hours alternative arrangements are in place. There is no plan to revise the Boots opening hours

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							at this time.
6	30/01/2014	Item 5m	Tony Rance asked the Chairman and Chief Executive not to underestimate the importance of being more visible round the Trust, as it would be well-received by staff. Robert Woolley and John Savage agreed that they would try to do more in this regard.	Chief Executive	28/04/2014		Guidance to Divisions about Chair, Chief Executive and Governor visits will be refreshed to emphasise opportunities for meeting Divisional staff. Early feedback from <i>Breaking the Cycle Together</i> initiative includes value of Senior Leadership Team visibility in operational areas and actions from this will be incorporated into final learning. Chair and Non-Executive Directors (and Governors) have indicated support for similar initiatives in future and offered personal involvement. Chief Executive will personally identify further opportunities for staff exposure (beyond existing programme) e.g. he accompanied Director of Workforce on her visit to meet Education Centre staff in April.
7	30/01/2014	Item 5n	Angelo Micciche requested an action plan of the learning from inquests. This was agreed.	Chief Nurse	28/04/2014	21/04/2014	An action plan relating to the learning from paediatric cardiac inquests has been provided to Sarah Murch for

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							distribution.
8	30/01/2014	Item 8	John Steeds asked for a copy of Giles Peel's presentation from the Governor Development Seminar to be circulated.	Trust Secretariat	28/4/2014	Feb 2014	Sent by post Feb 2014.
9	30/01/2014	9c	Wendy Gregory asked for a copy of the recommendations from the Constitution Task and Finish Group held on 26/11/2013.	Trust Secretariat	28/4/2014	5/2/14	Circulated by email to all governors 14/1/14. Re-sent to Wendy on 5/2/14.

Report for a Council of Governors Meeting to be held on 28 April 2014 at 13:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU

Item 6 - Governors' Log of Communications
Purpose
The purpose of this report is to provide the Council of Governors with an update on all open questions on the Governors' Log of Communications.
Abstract
The Governors' Log of Communications was established as a means of channelling communications between the governors and the officers of the Trust. Four items have been entered onto the Governors' Log of Communications since the previous Council of Governors meeting. These can be seen in Appendix A.
Recommendations
The Council of Governors is asked to note the report.
Report Sponsor or Other Author
Sponsor: Trust Secretary
Appendices
Appendix A – Governor Log – Items since the previous meeting.

ID Governor Name

86 Ken Booth Title: On-street drop-off parking for volunteer drivers**Query 14/04/2014**

The Board will be aware that lengthy discussions with City Council officials lead by Bob Pepper, Director of Facilities and Estates, with a view to the provision of on-street patient drop-off spaces have been un-successful. With the full support of governors Lorna Watson and I have been pressing for spaces to be set aside on both Upper and Lower Maudlin streets, particularly adjacent to the BRI entrance (where there would be no obstruction to traffic) and opposite the Eye hospital entrance (where there are currently pay & display spaces).

This issue poses a serious problem for volunteer drivers in car schemes who bring the elderly and/or infirm to out-patient appointments, as well as to those of us who offer this facility to friends or neighbours on an informal basis. Parking tickets are frequently issued by over-zealous attendants, outside the BRI, which makes volunteer drivers reluctant to provide this service. Short-term (15 minute, parking ticket-free) drop-offs outside the Eye hospital are practically impossible.

Providing easy access to our hospitals should be a priority if we truly believe in our values. This must not be obstructed by red-tape and excuses put forward of council officials. I now ask our Non-Executive Directors to support a direct approach by Robert Woolley to the Mayor, with a view to solving this problem once and for all.

Response 22/04/2014

Pending Assignment

85 Mo Schiller Title: Trust support for staff training**Query 09/04/2014**

What can the trust do to support care assistants/nursing/midwifery assistants financially to allow them to undertake further training to become qualified registered nurses/.midwives/operating department assistants.

Response 10/04/2014

Pending Assignment.

84 Mo Schiller Title: Process for cancelling appointments**Query 09/04/2014**

What is the purpose of sending out 1st class letters confirming a cancellation due to black alert 3 days after the booked session is cancelled.Surely speaking with the patient verbally is adequate.

Response 10/04/2014

Pending Assignment.

83 Mo Schiller Title: Productive Outpatient initiative**Query 09/04/2014**

The Productive Out patient initiative was meant to alleviate some of the problems with appointment booking.Why is it that the telephone lines meant to be manned Monday to Friday,9-5pm do not respond to messages when staff are away from their desks.A minimum 36 hours should be adequate for a telephone response.

Response 10/04/2014

Pending Assignment

Cover Sheet for a report for a Council of Governors Meeting, to be held on 28 April 2014 at 13:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU

Item 7 – Foundation Trust Constitution
Purpose
To update the Council of Governors on the draft changes to the Foundation Trust Constitution.
Abstract
<p>A strategic review of the Foundation Trust Constitution has been taking place with input from governors and the Trust Board.</p> <p>The revisions have been drafted and now come before the Council of Governors.</p> <p>There will be a consultation period during which governors and other key stakeholders will have the opportunity to consider the draft revisions in greater detail. It is therefore recommended that governors approve the proposed changes subject to the results of this consultation.</p> <p>The following documents are attached.</p> <p>Appendix A: A new draft Constitution for University Hospitals Bristol NHS Foundation Trust This has been prepared to be as user-friendly as possible. The drafting has attempted to remove as much of the legal language as possible, whilst remaining consistent with the requirements of the NHS Act 2006. We have inserted a foreword and a note on the Trust's governance structures, and moved the glossary to the end. We have adopted much of the approach used in the Salisbury NHS Foundation Trust constitution that governors identified as a model. We have also taken inspiration from the John Lewis Partnership constitution as suggested by governors. This has resulted in a substantially shorter document. There are a number of comments in the draft for the Trust to consider.</p> <p>Appendix B: Revised Standing Orders for Governors When finalised, these can be slotted into the constitution, as annex 6.</p> <p>Appendix C: Revised Standing Orders for Directors When finalised, these can be slotted into the constitution as annex 7.</p> <p>Appendix D: Revised Code of Conduct for Governors We have produced a significantly more concise document, focused on Governors' conduct. The attached draft includes some comments for you to consider. When finalised, this will become annex 8 to the constitution.</p> <p>Appendix E: Draft Policy on Board and Governor Engagement The drafting has removed some content related to Board/Council engagement from the constitution and standing orders. In response to this and to reflect the points in the notes from the task group, we have produced a draft policy to set out in more detail the engagement arrangements. The content</p>

**Page 2 of 2 of a report for a Council of Governors Meeting to be held on 28 April 2014
at 13:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol,
BS1 3NU**

reflects the points in the Trust's Annual Report 2012/13 but there may be more content which governors and directors may wish to add. Some suggestions as to other means of engagement are also provided.

Appendix F: A note discussing approaches to the definition of 'significant transaction'

Note that a PDF showing the detailed differences between the new draft constitution and UHB's existing constitution is available on request but is not printed as the documents are quite different and the tracked changes do not show easily in black and white.

Recommendations

The Council of Governors is recommended to consider the draft Foundation Trust Constitution for approval, taking into account the comments and queries posed throughout the document. Such approval would be subject to the results of the consultation.

Report Sponsor or Other Author

Sponsor: Trust Secretary

Appendices

Appendix A: Draft Constitution for University Hospitals Bristol NHS Foundation Trust
Appendix B: Revised Standing Orders for Governors
Appendix C: Revised Standing Orders for Directors
Appendix D: Revised Code of Conduct for Governors
Appendix E: Draft Policy on Board and Governor Engagement
Appendix F: Note discussing approaches to the definition of 'significant transaction'.

University Hospitals Bristol NHS Foundation Trust
draft / Constitution

[April 2014]

[Draft, 23 April 2014]

Foreword

This document is the Constitution of University Hospitals Bristol NHS Foundation Trust (the Trust). The Constitution sets out the corporate governance arrangements for the Trust. Much of it is in a form specified by law.

As context for those detailed governance arrangements this foreword sets out the Trust's purpose, mission, values and strategy. The following section summarises the Trust's governance arrangements, focusing in particular on the relationship between the Board of Directors and the Council of Governors.

The Trust: overview and purpose

The Trust has eight hospitals in the centre and south of Bristol, and is one of the largest NHS Trusts in the country and the major teaching and research centre for the South West of England.

The Trust provides general medical and emergency services to the local population of Central and South Bristol, and a broad range of specialist services across a region that extends from Cornwall to Gloucestershire, into South Wales and beyond.

As a specialist teaching Trust, the organisation works in strong and dynamic partnership with the University of Bristol, the University of the West of England and several other higher education institutions in this country and abroad. The Trust is a major provider of medical, nursing, midwifery and allied health professional education at pre and post-graduate levels.

The Trust's values

The Trust aims always to put patients at the centre of its service delivery and future strategy. To support this aim the Trust has adopted a set of four values, embedded throughout the organisation through the "Living the values" programme. The Trust's values are as follows:

- Respecting everyone
- Embracing change
- Recognising success
- Working together

Through these values the Trust and all of its staff aim always to act with integrity and honesty and to be open and transparent when communicating with patients, relatives, carers, staff and others.

The Trust's strategy

The Trust's focus on patients is at the centre of its future strategy, Transforming Care. Transforming Care is based on two beliefs that: (1) redesigning services to give the best care to patients is the route to maximising efficiency in the use of public funds, and (2) clinical teams across the organisation are best placed to identify opportunities for improvement and to lead change in implementing them. The six workstreams which comprise Transforming Care are: delivering best care, improving patient flow, delivery best value, renewing our hospitals, building capability, leading in partnership.

To support its overall strategy, Transforming Care, the Trust sets out a number of strategic aims under four areas: clinical services, research and development, teaching and learning, and supporting aims. The specific aims within each area are set out in the Trust's strategic plan.

Foundation Trust Governance Structure

The Trust is required by law to establish a governance structure which comprises a Board of Directors and a Council of Governors, the majority of whom are elected by members of the Trust who are not staff of the Trust.

The Trust's Directors have a general statutory duty to act with a view to promoting the success of the organisation so as to maximise the benefits for the members of the Trust as a whole and for the public. The Board is responsible for all aspects of the Trust's performance and for its objectives, priorities and strategy, the Board must, however, have regard to the Council's view on the Trust's strategy and plans. The Board comprises a (non-executive) Chairman and non-executive Directors, who are appointed and may be removed by the Council, and executive directors.

The Council comprises Governors who are elected by the Trust's members – the Governors elected by patients and public members of the Trust must by law be in the majority on the Council – and other Governors who are appointed by local partner organisations. The Governors have two general statutory duties: (1) to hold the non-executive Directors individually and collectively to account for the performance of the Board, and (2) to represent the interests of the members of the Trust as a whole and of the public. The Governors also have a number of specific statutory duties. In addition to representing the interests of the members and the public, the Governors are required to feed back to them on the performance of the Trust.

The Foundation Trust governance model is described in greater detail in the Foundation Trust Code of Governance (published by Monitor, the regulator), in respect of which the Trust must either comply or explain (in its annual report each year) its reasons for not doing so. As the model envisages, it is essential for the success of the Trust that the Board and the Council work effectively together. The basis for this relationship is set out in the Constitution and is detailed in the Policy on Board of Directors/Council of Governors Engagement.

The Constitution sets out the Trust's membership constituencies and refers to the policy which defines the processes by which individuals may become members.

University Hospitals Bristol NHS Foundation Trust Constitution

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1. **Name**
 - 1.1 The name of the foundation trust is University Hospitals Bristol NHS Foundation Trust (the Trust).
2. **Principal purpose**
 - 2.1 The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England.
 - 2.2 The Trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.
 - 2.3 The Trust may provide goods and services for any purposes related to—
 - 2.3.1 the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
 - 2.3.2 the promotion and protection of public health.
 - 2.4 The Trust may also carry on activities other than those mentioned in the above paragraph, for the purpose of making additional income available in order better to carry on its principal purpose.
3. **Powers**
 - 3.1 The powers of the Trust are set out in the 2006 Act.
 - 3.2 All 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**
 - 4.1 The Trust shall have Members, each of whom shall be a Member of one of the following constituencies—
 - 4.1.1 a Public Constituency,
 - 4.1.2 the Staff Constituency, or
 - 4.1.3 the Patients and Carers Constituency.
5. **Application for Membership**
 - 5.1 An individual who is eligible to become a Member may do so on application to the Trust or by being invited by the Trust to become a Member of the Staff Constituency in accordance with paragraph 8.
 - 5.2 An individual shall become a Member on the date his name is added to the Trust's register of Members, and shall cease to be a Member on the date is removed from the register of Members.
6. **Public Constituency**
 - 6.1 An individual who lives in an area specified in Annex 1 as an area for a Public Constituency may become or continue as a Member.

Comment [A1]: We have greatly simplified this, and removed most of the detail contained in paragraph 3 of Annex 9 to the existing constitution. We would suggest that detail is best kept out of the constitution, so that it can be amended if necessary without having to amend the constitution. Removing this detail is in line with the Salisbury constitution

- 6.2 Those individuals who live in an area specified for a Public Constituency are referred to collectively as a Public Constituency.
- 6.3 An individual who ceases to live in any area specified in Annex 1 shall cease to be a Member of any Public Constituency. A Member who moves from one area to another shall become a Member of the Public Constituency for that new area. Members should notify the Trust of any change of address.
- 6.4 In the case of any doubt, the Trust's decision as to whether or not an individual lives in an area will be final.
- 6.5 The minimum number of Members for each Public Constituency is specified in Annex 1.

Comment [A2]: Again we have removed much of the detail previously contained in paragraphs 1.3-1.6 of Annex 9.

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 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 Individuals who exercise functions for the purposes of the Trust, otherwise than under a contract of employment with the Trust, may become or continue as Members of the Staff Constituency if they have exercised these functions continuously for a period of at least 12 months. This category includes (but is not limited to) —
 - 7.2.1 contractors who provide services to the Trust for at least 16 hours per week or 50% of their contracted hours (whichever is the lesser),
 - 7.2.2 registered volunteers at the Trust or individuals who work at the Trust on behalf of a voluntary organisation, and
 - 7.2.3 academic staff who have an honorary contract with the Trust and who work at the Trust.
- 7.3 Those individuals who are eligible for membership by reason of this paragraph 7 are referred to collectively as the Staff Constituency.
- 7.4 The Staff Constituency shall be divided into four 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 Staff Class within the Staff Constituency.
- 7.5 The minimum number of Members in each Staff Class is specified in Annex 2.

Comment [A3]: We have proposed removing the following provision, on the basis that it can be considered unnecessary:

1.1 Where an individual is a Member by virtue of their eligibility to be a Member of a Staff Class and they cease to be eligible for Membership of that Staff Class but are eligible for Membership of some other Staff Class then the Trust may give notice to that Member of its intention to transfer him to that other Staff Class on the expiration of a period of time or upon a date specified in the said notice and shall after the expiration of that notice or date amend the Register of Members accordingly.

8. Automatic membership by default – staff

- 8.1 An individual who is—
 - 8.1.1 Eligible under paragraph 7.1 to become a Member of the Staff Constituency, and
 - 8.1.2 invited by the Trust to become a Member of the Staff Constituency and a Member of the appropriate Staff Class,shall become a Member as a Member of the Staff Constituency and appropriate Staff Class without an application being made, unless he informs the Trust that he does not wish to do so.

Comment [A4]: There is no need expressly to require people eligible under 8.2 to apply, as they are already covered by paragraph 6.

9. **Patients and Carers Constituency**

- 9.1 An individual who has, within the preceding three years, attended any of the Trust's hospitals as either a patient or as the carer of a patient may become or continue as a Member.
- 9.2 Those individuals who are eligible for membership by reason of paragraph 9.1 are referred to collectively as the Patients and Carers Constituency.
- 9.3 An individual who has not attended any of the Trust's hospitals in the preceding three years as a patient or carer may not continue as a Member of the Patients and Carers Constituency.
- 9.4 An individual providing care under a contract (including a contract of employment) with a voluntary organisation, or as a volunteer for a voluntary organisation, does not come within the category of those who qualify for membership of the Patients and Carers Constituency.
- 9.5 The minimum number of Members in the Patients and Carers Constituency is specified in Annex 3.
- 9.6 An applicant for membership who notifies the Trust of his eligibility to be a Member of either a Public Constituency or of the Patients and Carers Constituency, shall become a Member of the Patients and Carers Constituency unless he has informed the Trust in writing that he wishes instead to become a Member of a Public Constituency.

10. **Restriction on membership**

- 10.1 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.
- 10.2 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.
- 10.3 An individual shall not be eligible for membership if he—
 - 10.3.1 fails or ceases to fulfil the criteria for membership of any of the constituencies,
 - 10.3.2 was formerly employed by the Trust or its predecessor applicant NHS Trust and was dismissed for gross misconduct,
 - 10.3.3 was formerly employed by the Trust and in the preceding two years was lawfully dismissed other than by reason of redundancy,
 - 10.3.4 has been involved as a perpetrator in a serious incident of violence or abuse in the last five years at any of the Trust's hospitals or against any of the Trust's staff members or patients,
 - 10.3.5 has been placed on the registers of Schedule 1 Offenders pursuant to the Sexual Offences Act 2003 (as amended) and/or the Children & Young Person's Acts 1933 to 1969 (as amended) and his or her conviction is not spent under the Rehabilitation of Offenders Act 1974,
 - 10.3.6 does not agree to abide by the Trust values as set out in the Trust's Integrated Business Plan,
 - 10.3.7 has been identified as a vexatious complainant or has been excluded from treatment at any of the Trust's hospitals due to unacceptable

Comment [A5]: Following discussion with Charlie Helps, the Patients and Carers Constituency is no longer divided into classes. This is intended to foster a more inclusive approach and limit any artificial boundaries that could arise through having separate classes and therefore separate governor representation. We have discussed with Charlie the requirement for the Trust to take steps to ensure that carers are represented, using the Trust's Membership Strategy and otherwise.

behaviour,

10.3.8 is deemed, in the reasonable opinion of the Trust, to have acted in a manner contrary to the interests of the Trust, or

10.3.9 is under the age of seven (7) years.

10.4 Members should ensure their own eligibility for membership and inform the Trust if they cease to be eligible.

10.5 A Member shall cease to be a Member if—

10.5.1 he resigns by notice in writing to the Membership Manager,

10.5.2 he dies,

10.5.3 he ceases to be entitled under this constitution to be a Member,

10.5.4 he is expelled under this constitution, or

10.5.5 it appears to the Membership Manager that the Member no longer wishes to be involved in the affairs of the Trust as a Member, and after enquiries made in accordance with a process approved by the Governors, the Member does not establish that he has a continuing wish to be involved in the affairs of the Trust as a Member.

10.6 The Trust shall give any Member at least 14 days' written notice before removing him from Membership under paragraphs 10.5.3, 10.5.4, or 10.5.5.

11. Annual Members' Meeting

11.1 The Trust shall hold an Annual Members' Meeting no later than 30 September every year. The Annual Members' Meeting shall be open to the public.

11.2 Any Members' meetings other than the Annual Members' Meeting shall be called "Special Members' Meetings".

11.3 Special Members' Meetings shall be open to all Members, Governors and Directors, and to representatives of the Trust's financial auditors. Special Members' Meetings shall not be open to anyone else unless invited by the Trust.

11.4 All Members' meetings are to be convened by the Directors.

11.5 The Directors shall decide where any Members' meeting is to be held and may provide that the same meeting can be conducted in multiple venues.

11.6 The Directors shall set the quorum for any Members' meeting.

11.7 The Trust shall give at least 14 clear days' notice of any Members' meeting—

11.7.1 by notice in writing to all Members (by email where email addresses are held),

11.7.2 by notice prominently displayed at the Trust's main address and at all of the Trust's principal places of business,

11.7.3 by notice on the Trust's website, and

11.7.4 to the Governors and the Directors, and to the Trust's auditors,

stating whether the meeting is an Annual Members' Meeting or a Special Members' Meeting, giving the time, date and place of the meeting and indicating the business to be dealt with at the meeting.

Comment [A6]: The Trust may wish to include this to minimize the costs of notifying members.

- 11.8 The Directors shall present to the Members at the Annual Members' Meeting—
- 11.8.1 a report on steps taken to secure that (taken as a whole) the actual membership is representative of those eligible for such membership,
 - 11.8.2 the progress of the membership strategy,
 - 11.8.3 any proposed changes to the policy for the composition of the Governors and of the non-executive Directors,
 - 11.8.4 the results of the election and appointment of Governors, and
 - 11.8.5 any other reports or documentation it considers necessary or otherwise required by Monitor or the 2006 Act, including the annual accounts, any report of the auditor and the annual report.
- 11.9 The Chair or in his absence the Deputy Chair shall chair any Members' meetings. If neither the Chair nor the Deputy Chair is present, the Governors present shall elect one of their number to chair the meeting. If there is only one Governor present and willing to act that person shall chair the meeting. If no Governor is present and willing to chair the meeting within fifteen minutes after the notified start time of the meeting, the Members present and entitled to vote shall choose one of their number to chair the meeting.
12. **Council of Governors – composition**
- 12.1 The Trust is to have a Council of Governors, which shall comprise both elected and appointed Governors.
 - 12.2 The composition of the Council of Governors is specified in Annex 4.
 - 12.3 The Governors, other than the appointed Governors, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency.
 - 12.4 The number of Governors to be elected by each constituency, or, where appropriate, by each class of each constituency, is specified in Annex 4.
 - 12.5 At all times more than half of the Governors shall be Governors who are elected by Members of the Public Constituency and the Patients and Carers Constituency.
13. **Council of Governors – election of Governors**
- 13.1 Elections for elected Governors shall be conducted in accordance with the Model Election Rules.
 - 13.2 The Model Election Rules as published from time to time by the Department of Health form part of this constitution. The Model Election Rules current at the date of the Trust's Authorisation are attached at Annex 5.
 - 13.3 A subsequent variation of the Model Election Rules by the Department of Health shall not constitute a variation of the terms of this constitution for the purposes of paragraph 44 of the constitution (amendment of the constitution).
 - 13.4 An election, if contested, shall be by secret ballot.
 - 13.5 A Member of a Public Constituency or of the Patients and Carers Constituency standing for election as Governor must, at the time of his nomination, make a declaration for the purposes of Section 60 of the 2006 Act in the form specified by the Trust, stating the particulars of his qualification to vote as a Member and that he is not prevented from being a Governor by virtue of any provisions of this constitution.

Comment [A7]: We have removed the actual specified form of the declaration, to give the Trust freedom to amend the declaration as and when required.

14. Council of Governors - tenure

- 14.1 An elected Governor may hold office for a period of up to three years.
- 14.2 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 (except that a Public Governor who moves from one Public Constituency to another during his term of office shall continue in office as a Public Governor for the constituency which elected him for the remainder of his term).
- 14.3 Subject to paragraph 14.7, an elected Governor shall be eligible for re-election at the end of his term.
- 14.4 An appointed Governor may hold office for a period of up to three years (except for Governors appointed by the Trust's Youth Council who may hold office for a period of up to one year).
- 14.5 An appointed Governor shall cease to hold office if the appointing organisation withdraws his appointment.
- 14.6 Subject to paragraph 14.7, an appointed Governor shall be eligible for re-appointment at the end of his term.
- 14.7 No Governor may serve for more than a total of nine years.

15. Council of Governors – disqualification and removal

- 15.1 Governors must be at least 16 years of age at the date they are nominated for election or appointment.
- 15.2 A person may not become or continue as a Governor if he—
 - 15.2.1 has been adjudged bankrupt or his estate has been sequestrated and (in either case) has not been discharged,
 - 15.2.2 has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it,
 - 15.2.3 within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him,
 - 15.2.4 has within the preceding two years been lawfully dismissed otherwise than by reason of redundancy from any paid employment with a Health Service Body,
 - 15.2.5 was formerly employed by the Trust or its predecessor application NHS trust and was dismissed for gross misconduct,
 - 15.2.6 is a person whose term of office as the chair or as a member or director of a Health Service Body has been terminated on the grounds that his continuance in office is no longer in the best interests of the health service, for non-attendance at meetings or for non-disclosure of a pecuniary interest,
 - 15.2.7 has had his name removed by a direction under Section 154 of the 2006 Act from any list prepared under Part 4 of that Act and has not subsequently had his name included in such a list,
 - 15.2.8 has failed to make, or has falsely made, any declaration as required to be made under Section 60 of the 2006 Act or has spoken or voted in a meeting on a matter in which he had a direct or indirect pecuniary or

non-pecuniary interest and he is judged to have acted so by a majority of not less than 75% of the Council of Governors,

- 15.2.9 has been removed as a Governor, suspended from office or disqualified from holding office as a Governor by Monitor, or Monitor has exercised any of those powers in relation to him on any other occasion whether in relation to the Trust or some other NHS Foundation Trust,
 - 15.2.10 has received a written warning from the Trust for verbal and/or physical abuse towards Trust staff or patients,
 - 15.2.11 has been placed on the registers of Schedule 1 Offenders pursuant to the Sexual Offences Act 2003 (as amended) and/or the Children and Young Person's Act 1933 to 1969 (as amended) and his conviction is not spent under the Rehabilitation of Offenders Act 1974,
 - 15.2.12 is a Member of a Staff Class and any professional registration relevant to his eligibility to be a Member of that Staff Class has been suspended for a continuous period of more than six months,
 - 15.2.13 is incapable by reason of mental disorder, illness or injury in managing and administering his property and/or affairs,
 - 15.2.14 is appointed by an organisation that ceases to exist,
 - 15.2.15 is a member of the UK Parliament,
 - 15.2.16 is a director or a governor of another NHS Foundation Trust, or
 - 15.2.17 is a member of a local authority overview and scrutiny committee.
- 15.3 A Governor who becomes disqualified must notify the Trust as soon as practicable and in any event within 14 days of first becoming aware that he is disqualified.
- 15.4 If the Trust becomes aware that a Governor is disqualified, the Trust will give him notice that he is disqualified as soon as practicable.
- 16. Council of Governors: Termination of Tenure**
- 16.1 A Governor's term of office shall be terminated—
 - 16.1.1 by the Governor giving notice in writing to the Trust of his resignation from office at any time during that term of office,
 - 16.1.2 by the giving of a notice under either paragraph 15.3 or 15.4,
 - 16.1.3 by the Council of Governors if he has failed to attend two successive meetings of the Council of Governors unless the Council of Governors is satisfied:
 - 16.1.3.1 the absence was due to reasonable cause, and
 - 16.1.3.2 that the Governor will resume attendance at meetings of the Council of Governors within such period as it considers reasonable.
 - 16.1.4 if the Council of Governors resolves that—
 - 16.1.4.1 his continuing as a Governor would or would be likely to prejudice the ability of the Trust to fulfil its principal purpose or of its purposes under this constitution or otherwise to discharge its duties and functions,

Comment [A8]: this is very stringent. The Governors do not have any discretion over whether to disqualify – their only role (as drafted) is to determine the fact of whether the governor spoke or voted on an issue in which he had an interest. There may be circumstances in which an accidental breach should not lead to termination.

The Trust might consider removing this and leaving it to the Governors' discretion, under para 16.1.4

Comment [A9]: We note the discussion around flexibility for Staff Governors to attend fewer meetings.

We would suggest that the Governors could agree (outside the Constitution) that if the Staff Governors agree an attendance rota, that rota is approved by the rest of the Governors, and that rota is adhered to, then the Governors will be satisfied that non-attendance by Governors who are not on the rota for that meeting is for reasonable cause and that 16.1.3.2 is satisfied by the Governor attending future meetings in accordance with the agreed rota.

- 16.1.4.2 his continuing as a Governor would or would be likely to prejudice the Trust's work with other persons or body with whom it is engaged or may be engaged in the provision of goods and services,
 - 16.1.4.3 his continuing as a Governor would or would be likely to adversely affect public confidence in the goods and services provided by the Trust,
 - 16.1.4.4 his continuing as a Governor would or would be likely to otherwise bring the Trust into disrepute or be detrimental to the interest of the Trust,
 - 16.1.4.5 it would not be in the best interests of the Council of Governors for him to continue in office as a Governor,
 - 16.1.4.6 it would not be in the best interests of the Trust for him to continue in office as a Governor,
 - 16.1.4.7 he is a vexatious or persistent litigant or complainant with regard to the Trust's affairs and his continuance in office would not be in the best interests of the Trust,
 - 16.1.4.8 he has failed or refused to undertake and/or satisfactorily complete any training which the Council of Governors has required him to undertake in his capacity as a Governor,
 - 16.1.4.9 he has in his conduct as a Governor failed to comply in a material way with the values and principles of the National Health Service or the Trust, and/ or this constitution, or
 - 16.1.4.10 he has committed a material breach of any code of conduct applicable to Governors and/or the Standing Orders for Governors.
- 16.2 A resolution under paragraph 16.1.4 shall be proposed by the Chair (or in his absence, the Deputy Chair) and considered in a meeting of the Council of Governors convened for that purpose and to pass requires a majority of three quarters of the Governors voting at that meeting.
- 16.3 If the Chair is minded to propose a resolution under paragraph 16.1.4, the Chair shall first offer the Governor in question the opportunity to have the evidence reviewed by an independent assessor agreeable to that Governor and to the Chair.
- 16.4 The Standing Orders adopted by the Council of Governors may contain provisions governing its procedure for terminating a Governor's term of office and for a Governor to appeal against the termination.
- 16.5 A Governor whose term of office is terminated before it expires shall not be eligible to be a Governor for three years from the date of termination, except by resolution carried by a majority of the Council of Governors voting.
17. **Council of Governors: vacancies**
- 17.1 If an appointed Governor's term of office is terminated before it expires, the Trust will invite the relevant appointing body to appoint a new Governor to hold office for the remainder of the term of office.
 - 17.2 If an elected Governor's term of office is terminated [more than 90 days before it] before it expires, the Trust will invite the candidate who secured the second highest number of votes in the last election for that office to assume the position

Comment [A10]: Added to allow for circumstance where relations have simply broken down irreconcilably.

Comment [A11]: Proposed additional safeguard as a matter of good governance.

Comment [A12]: We have included this in light of B.6.6 of the Monitor Code of Governance. We would note that para B.6.6 provides for the matter to be 'determined' by the independent assessor. We have not gone quite that far with our drafting – so that the Trust retains the discretion if necessary to reject an independent assessor's report. If that happened, the Trust would have to explain the non-compliance with para B.6.6, but in the circumstances that may be preferable to accepting an external determination that required the Trust to retain a governor in circumstances where the Trust's strong view was that the Governor should be removed.

Comment [A13]: The SOGs do not at present make provision for appeals. Do you want them to?

Comment [A14]: Suggested insertion because as a practical matter, if there are less than 3 months remaining, it may not be worthwhile filling the post.

for the remainder of the retiring Governor's term, provided that he achieved at least five percent (5%) of the number of votes for that constituency (or Class of constituency, as the case may be). If that candidate does not accept, the vacancy will be offered to the candidate who secured the next highest number of votes (provided that he achieved at least five percent (5%) of the number of votes), and so on.

- 17.3 If no reserve candidate is available or willing to fill the vacancy, and an election is not due to be held within 6 months of the vacancy arising, an election will be held in accordance with the Election Scheme as soon as is reasonably practicable. If an election is due to be held within 6 months, the office will stand vacant until the next scheduled election, unless the vacancy causes the aggregate number of Public Governors and Patient and Carer Governors to be less than half the total membership of the Council of Governors. In that case an election will be held in accordance with the Election Scheme as soon as reasonably practicable.
- 17.4 No defect in the election or appointment of a Governor or deficiency in the composition of the Council of Governors shall affect the validity of any act or decision of the Council of Governors.

18. Council of Governors – duties of Governors

- 18.1 The general duties of the Council of Governors are—
- 18.1.1 to hold the non-executive Directors individually and collectively to account for the performance of the Board of Directors, and
- 18.1.2 to represent the interests of the Members as a whole and the interests of the public.
- 18.2 The Trust must take steps to secure that the Governors are equipped with the skills and knowledge they require in their capacity as such.

19. Council of Governors – meetings of Governors

- 19.1 The Chair or, in his absence the Deputy Chair, shall preside at meetings of the Council of Governors.
- 19.2 Meetings of the Council of Governors shall be open to members of the public, unless members of the public are excluded for special reasons.
- 19.3 For the purposes of obtaining information about the Trust's performance of its functions or the Directors' performance of their duties (and deciding whether to propose a vote on the Trust's or Directors' performance), the Council of Governors may require one or more of the Directors to attend a meeting of the Council of Governors.

Comment [A15]: The existing Constitution says 'on grounds more particularly provided for in Annex 6' but no such grounds are particularized in Annex 6, and there is no need to do so.

20. Council of Governors – standing orders

- 20.1 The standing orders for the practice and procedure of the Council of Governors are attached at Annex 7.

21. Council of Governors – referral to the Panel

- 21.1 In this paragraph, the Panel means a panel of persons appointed by Monitor to which a governor of an NHS foundation trust may refer a question as to whether the trust has failed or is failing—
- 21.1.1 to act in accordance with its constitution, or
- 21.1.2 to act in accordance with provision made by or under Chapter 5 of the 2006 Act.

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

22. Council of Governors – conflicts of interest of Governors

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

23. Council of Governors – travel expenses

- 23.1 The Trust may pay travelling and other expenses to Governors at rates determined by the Trust.

24. Board of Directors – composition

- 24.1 The Trust has a Board of Directors, which comprises both executive and non-executive Directors.
- 24.2 The Board of Directors comprises—
- 24.2.1 a non-executive Chairman,
 - 24.2.2 up to 8 other non-executive Directors (one of whom may be nominated as the Senior Independent Director), and
 - 24.2.3 up to 7 executive Directors.
- 24.3 One of the executive Directors is the Chief Executive.
- 24.4 The Chief Executive is the Accounting Officer
- 24.5 One of the executive Directors is the Finance Director
- 24.6 One of the executive Directors is a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).
- 24.7 One of the executive Directors is a registered nurse or a registered midwife.
- 24.8 The Board of Directors shall at all times be constituted so that the number of non-executive Directors (excluding the Chair) equals or exceeds the number of executive Directors.

25. Board of Directors – general duty

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

26. Board of Directors – qualification for appointment as a non-executive Director

- 26.1 A person may be appointed as a non-executive Director only if—
- 26.1.1 he is a Member of a Public Constituency, or
 - 26.1.2 he is a Member of the Patients and Carers Constituency, or

26.1.3 where any of the Trust's hospitals includes a medical or dental school provided by a university, he exercises functions for the purposes of that university, and

26.1.4 he is not disqualified by virtue of paragraph 30 below.

27. **Board of Directors – appointment and removal of the Chair and other non-executive Directors**

27.1 The Governors shall appoint or remove the Chair and the other non-executive Directors.

27.2 Removal of the Chair or another non-executive Director shall require the approval of at least three-quarters of the Governors.

28. **Board of Directors – appointment of the Deputy Chair**

28.1 The Governors shall appoint one of the non-executive Directors to be the Deputy Chair.

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

29.1 The non-executive Directors shall appoint or remove the Chief Executive.

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

29.3 A committee consisting of the Chief Executive, the Chair and the other non-executive Directors shall appoint or remove the other executive Directors.

30. **Board of Directors – disqualification**

30.1 A person may not become or continue as a Director if he—

30.1.1 has been adjudged bankrupt or his estate has been sequestrated and (in either case) has not been discharged,

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

30.1.3 within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him,

30.1.4 in the case of a non-executive Director, no longer satisfies the relevant requirements for appointment,

30.1.5 is a person whose tenure of office as a chair 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, or for non-disclosure of a pecuniary interest,

30.1.6 has within the preceding two years been dismissed, otherwise than by reason of redundancy, by the coming to an end of fixed term contract or through ill health, from any paid employment with a Health Service Body,

30.1.7 information revealed by a DBS check is such that it would be inappropriate for him to become or continue as a Director on the grounds that this would adversely affect public confidence in the Trust or otherwise bring the Trust into disrepute,

Comment [A16]: how would this be determined? Do you need it? Directors with patient access (e.g. Chief Nurse) will have it anyway. Arguably, others don't need it.

- 30.1.8 in the case of an executive Director, is no longer employed by the Trust,
- 30.1.9 has had his name removed by a Direction under section 154 of the 2006 Act from any list prepared under Part 4 of that Act, and has not subsequently had his name included on such a list,
- 30.1.10 is an executive or non-executive director of another NHS Foundation Trust, or a governor, non-executive director, chair, chief executive officer or equivalent of another Health Service Body or a body corporate whose business includes the provision of healthcare,
- 30.1.11 is a member of a patient and public involvement forum,
- 30.1.12 is a member of a local authority's overview and scrutiny committee,
- 30.1.13 is the subject of a disqualification order made under the Company Directors' Disqualifications Act 1986,
- 30.1.14 has failed or refused to undertake any training which the Board of Directors requires all Directors to undertake,
- 30.1.15 has failed to sign and deliver to the Secretary in the form required by the Board of Directors confirmation that he accepts the Code of Conduct of NHS Managers,
- 30.1.16 is a partner or spouse of an existing Director,
- 30.1.17 is an 'unfit person' as defined in the Trust's provider licence (as may be amended from time to time), or
- 30.1.18 does not meet any other statutory requirement for being a director of an NHS foundation trust.

Comment [A17]: We have inserted this general clause to catch the Fit and Proper Person legislation.

31. Board of Directors – meetings

- 31.1 Meetings of the Board of Directors shall be open to members of the public, unless members of the public are excluded for special reasons.
- 31.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

32. Board of Directors – standing orders

- 32.1 The standing orders for the practice and procedure of the Board of Directors are attached at Annex 7.

33. Board of Directors - conflicts of interest of Directors

- 33.1 The duties that a Director has by virtue of being a Director include in particular—
 - 33.1.1 a duty to avoid a situation in which the Director has (or can have) a direct or indirect interest that conflicts (or possibly may conflict) with the interests of the Trust; and
 - 33.1.2 a duty not to accept a benefit from a third party by reason of being a Director or doing (or not doing) anything in that capacity.
- 33.2 The duty referred to in sub-paragraph 33.1.1 is not infringed if—
 - 33.2.1 the situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

- 33.2.2 the matter has been authorised in accordance with the constitution.
- 33.3 The duty referred to in sub-paragraph 33.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.
- 33.4 In sub-paragraph 33.1.2, “third party” means a person other than—
- 33.4.1 the Trust, or
- 33.4.2 a person acting on its behalf.
- 33.5 If a Director has in any way a direct or indirect interest in a proposed transaction or arrangement with the Trust, the Director must declare the nature and extent of that interest to the other Directors.
- 33.6 If a declaration under this paragraph proves to be, or becomes, inaccurate, incomplete, a further declaration must be made.
- 33.7 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.
- 33.8 This paragraph does not require a declaration of an interest of which the Director is not aware or where the Director is not aware of the transaction or arrangement in question.
- 33.9 A Director need not declare an interest—
- 33.9.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest,
- 33.9.2 if, or to the extent that, the Directors are already aware of it, or
- 33.9.3 if, or to the extent that, it concerns terms of the Director’s appointment that have been or are to be considered—
- 33.9.3.1 by a meeting of the Board of Directors, or
- 33.9.3.2 by a committee of the Directors appointed for the purpose under the constitution.
- 33.10 The Standing Orders of the Board of Directors shall include provisions about the disclosure of interests and arrangements for a Director with an interest to withdraw from a meeting in relation to the matter in respect of which he has declared an interest.
34. **Board of Directors – remuneration and terms of office**
- 34.1 The Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chair and the other non-executive Directors.
- 34.2 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.
35. **Registers**
- 35.1 The Trust shall have—
- 35.1.1 a register of Members showing, in respect of each Member, the constituency to which he belongs and, where there are classes within it, the class to which he belongs,
- 35.1.2 a register of Governors,

35.1.3 a register of interests of Governors,

35.1.4 a register of Directors, and

35.1.5 a register of interests of Directors.

36. Registers – inspection and copies

36.1 The Trust shall make the registers specified in paragraph 35 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

36.2 The Trust shall not make any part of its registers available for inspection by members of the public which shows details of—

36.2.1 any Member of the Patients and Carers Constituency, or

36.2.2 any other Member, if he so requests.

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

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

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

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

37. Documents available for public inspection

37.1 The Trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times—

37.1.1 a copy of the current constitution,

37.1.2 a copy of the latest annual accounts and of any report of the auditor on them, and

37.1.3 a copy of the latest annual report.

37.2 The Trust shall also make the following documents relating to a special administration of the Trust available for inspection by members of the public free of charge at all reasonable times—

37.2.1 a copy of any order made under section 65D (appointment of trust special administrator), 65J (power to extend time), 65KC (action following Secretary of State's rejection of final report), 65L (trusts coming out of administration) or 65LA (trusts to be dissolved) of the 2006 Act,

37.2.2 a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act,

37.2.3 a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act,

37.2.4 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act,

37.2.5 a copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act,

Comment [A18]: We have removed the specific provisions about admission and removal from the register of members that were in paras 3.4-3.7 of Annex 9. This is in line with the Salisbury constitution, and in line with the general principle of removing unnecessary provisions from the constitution and so making it as accessible as possible.

- 37.2.6 a copy of any notice published under section 65F (administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA (Monitor's decision), 65KB (Secretary of State's response to Monitor's decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act,
 - 37.2.7 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act,
 - 37.2.8 a copy of any final report published under section 65I (administrator's final report),
 - 37.2.9 a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act,
 - 37.2.10 a copy of any information published under section 65M (replacement of trust special administrator) of the 2006 Act.
 - 37.3 Any person who requests a copy of or extract from any of the above documents is to be provided with a copy.
 - 37.4 If the person requesting a copy or extract is not a Member, the Trust may impose a reasonable charge for doing so.
38. **Auditor**
- 38.1 The Trust shall have an auditor.
 - 38.2 The Council of Governors shall appoint or remove the auditor at a general meeting of the Council of Governors.
39. **Audit committee**
- 39.1 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.
40. **Accounts**
- 40.1 The Trust must keep proper accounts and proper records in relation to the accounts.
 - 40.2 Monitor may with the approval of the Secretary of State give directions to the Trust as to the content and form of its accounts.
 - 40.3 The accounts are to be audited by the Trust's auditor.
 - 40.4 The Trust shall prepare in respect of each financial year annual accounts in such form as Monitor may with the approval of the Secretary of State direct.
 - 40.5 The functions of the Trust with respect to the preparation of the annual accounts shall be delegated to the Accounting Officer.
41. **Annual report, forward plans and non-NHS work**
- 41.1 The Trust shall prepare an annual report and send it to Monitor.
 - 41.2 The Trust shall give information as to its forward planning in respect of each financial year to Monitor.

- 41.3 The document containing the information with respect to forward planning (referred to above) shall be prepared by the Directors.
 - 41.4 In preparing the document, the Directors shall have regard to the views of the Council of Governors.
 - 41.5 Each forward plan must include information about—
 - 41.5.1 the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on, and
 - 41.5.2 the income it expects to receive from doing so.
 - 41.6 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 41.5.1 the Council of Governors must—
 - 41.6.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions, and
 - 41.6.2 notify the Directors of its determination.
 - 41.7 If the Trust proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England, the Trust may implement the proposal only if more than half of the Governors voting approve its implementation.
42. **Presentation of the annual accounts and reports to the Governors and Members**
- 42.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors—
 - 42.1.1 the annual accounts,
 - 42.1.2 any report of the auditor on them, and
 - 42.1.3 the annual report.
 - 42.2 The documents shall also be presented to the Members at the Annual Members' Meeting by at least one Director in attendance.
 - 42.3 The Trust may combine a meeting of the Council of Governors convened for the purposes of sub-paragraph 42.1 with the Annual Members' Meeting.
43. **Instruments**
- 43.1 The Trust shall have a seal.
 - 43.2 The seal shall not be affixed except under the authority of the Board of Directors.
44. **Amendment of the constitution**
- 44.1 The Trust may make amendments of its constitution only if—
 - 44.1.1 more than half of the Governors voting approve the amendments, and
 - 44.1.2 more than half of the Directors voting approve the amendments.
 - 44.2 Amendments made under paragraph 44.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the

constitution would, as a result of the amendment, not accord with schedule 7 of the 2006 Act.

- 44.3 Where an amendment is made to the constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust)—
- 44.3.1 at least one Governor must attend the next Annual Members' Meeting and present the amendment,
 - 44.3.2 the Trust must give the Members an opportunity to vote on whether they approve the amendment, and
 - 44.3.3 if more than half of the Members voting approve the amendment, the amendment continues to have effect, otherwise, it ceases to have effect and the Trust must take such steps as are necessary as a result.
- 44.4 Amendments by the Trust of its constitution are to be notified to Monitor. For the avoidance of doubt, Monitor's functions do not include a power or duty to determine whether or not the constitution, as a result of the amendments, accords with Schedule 7 of the 2006 Act.

45. Mergers etc. and significant transactions

- 45.1 The Trust may only apply for a merger, acquisition, separation or dissolution with the approval of more than half of the Governors.
- 45.2 The Trust may enter into a significant transaction only if more than half of the Governors voting approve entering into the significant transaction.
- 45.3 A 'significant transaction' is one which, if entered into by the Trust would—
- 45.3.1 increase or reduce the turnover of the Trust by the greater of [£60 million] and [10%],
 - 45.3.2 involve a receipt of or capital expenditure of [£30 million] or more (which in the case of expenditure should be calculated after deducting any grant or gift that specifically relates to the expenditure in question), or
 - 45.3.3 involve a service contract, asset rental or lease with a planned income or cost over its duration of [£30 million] or more.
- 45.4 Where it might reasonably be considered that a proposed transaction would fall within paragraph 45.3, the Directors shall inform the Governors of the proposed transaction at the earliest opportunity.
- 45.5 In deciding whether to approve a proposed significant transaction the Governors will—
- 45.5.1 act in accordance with their judgement of the best interests of the Trust, and
 - 45.5.2 have regard to the risks arising from the transaction and the adequacy of steps proposed to mitigate those risks, and to the risks arising from not entering into the transaction.
- 45.6 If the Governors do not approve a significant transaction, the reasons advanced in the course of the Governors' discussion of the transaction for and against approval shall be recorded in the minutes.
- 45.7 The Directors shall also inform the Governors of transactions not featuring in the annual estimates, capital programme or annual plan for the year which the

Comment [A19]: This wording is adapted from the Salisbury constitution. We have removed the wording expressly requiring the Governors to consider whether a proposed transaction puts the Trust's ability to perform its functions at risk. The directors could not legitimately propose such a transaction.

We have also suggested amounts based on the Salisbury amounts (and adopting the rough rule of thumb that UHB is c.3x the size of Salisbury and has a turnover of c.£600m). As the Trust has complete freedom over its definition of significant transaction, however, the Trust is free to choose whatever figures it wishes.

Directors are considering and which involve a sum which is greater than [2%] of the Trust's income or capital in the previous year.

46. **Indemnity**

46.1 Governors and 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 Board functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust and the Trust shall have the power to purchase suitable insurance or make appropriate arrangements with the National Health Service Litigation Authority to cover such costs.

47. **Interpretation and definitions**

47.1 Unless otherwise stated, words or expressions contained in this constitution shall bear the same meaning as in the 2006 Act.

47.2 Words importing the masculine gender only shall include the feminine gender, words importing the singular shall import the plural and vice-versa.

47.3 References to statutory provisions shall be construed as references to those provisions as subsequently amended or re-enacted (whether before or after the date of this Agreement) from time to time and shall include any provisions of which they are re-enactments (whether with or without modification).

47.4 The following expressions have the following meanings, unless the context requires otherwise—

"the 2006 Act"	is the National Health Service Act 2006 (as amended by the 2012 Act).
"the 2012 Act"	is the Health and Social Care Act 2012.
"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.
"Annual Members Meeting"	means an annual meeting of the Members.
"constitution"	means this constitution and all annexes to it.
"Director"	means a member of the Board of Directors of the Trust.
"Governor"	means a member of the Council of Governors of the Trust.
"health service body"	means an NHS foundation trust or any of the bodies listed in Section 9(4) of the 2006 Act.
"Member"	means a member of the Trust.
"Monitor"	is the body corporate known as Monitor, as provided by Section 61 of the 2012 Act.
"voluntary organisation"	means a body, other than a public or local authority, the activities of which are not carried on for profit.

ANNEX 1
THE PUBLIC CONSTITUENCIES

The Public Constituencies	Area of each Public Constituency (as defined by Local Authority boundaries)	Minimum Number of Members
Bristol	Bristol City Council	1307
North Somerset	North Somerset District Council	351
South Gloucestershire	South Gloucestershire Council	292
Rest of England and Wales	Rest of England and Wales	819

Comment [A20]: Minimum numbers are relatively high across the board. We query in particular whether the Trust ever struggles with this particular minimum?

ANNEX 2
THE STAFF CONSTITUENCY

Classes within the Staff Constituency	Individuals Eligible for Membership of that Staff Class	Minimum Number of Members in each Staff Class
Medical and Dental Staff	Those individuals defined in paragraph 1 below.	830
Nursing and Midwifery Staff	Those individuals defined in paragraph 2 below.	2715
[Other Clinical Healthcare Staff]	Those individuals defined in paragraph 3 below.	1190
[Non-Clinical Healthcare Staff]	Those individuals defined in paragraph 4 below.	2125

1. Medical and Dental Staff

1.1 Members of the Staff Constituency who are fully registered persons within the meaning of the Medical Act 1983 or the Dentists Act 1984 and who are otherwise fully authorised and licensed to practise in England and Wales or who are otherwise designated by the Trust from time to time as eligible to be members of this Staff Class for the purposes of this paragraph having regard to the usual definitions applicable at that time for persons carrying on the professions of medical practitioner or dentist.

2. Nursing and Midwifery Staff

2.1 Members of the Staff Constituency who are registered under the Nurses, Midwives and Health Visitors Act 1997 and who are otherwise fully authorised and licensed to practise in England and Wales or are otherwise designated by the Trust from time to time as eligible to be Members of this Staff Class for the purposes of this paragraph, having regard to the usual definitions applicable at that time for persons carrying on the profession of registered nurse or registered midwife and individuals who are health care assistants.

3. Other Clinical Healthcare Staff

3.1 Members of the Staff Constituency who do not come within paragraphs 1 or 2 above and are regulated by a regulatory body that falls within the remit of the Professional Standards Authority for Health and Social Care established by the NHS Reform Act 2002 (as amended by the 2012 Act), or who are otherwise designated by the Trust from time to time as eligible Members of this Staff Class for the purposes of this paragraph, having regard to the usual definitions applicable at that time for persons carrying on such professions.

4. Non-Clinical Staff

4.1 Members of the Staff Constituency, who do not come within paragraphs 1, 2 or 3 above and are designated by the Trust from time to time as eligible to be a Member of this Staff Class.

5. Honorary contract holders

Comment [A21]: We note that these staff class names are under review. We would note that changing the staff class definitions can increase uncertainty if people move class as a result.

Comment [A22]: This previously referred to the ' Medicines Act 1956' – which does not appear to be an Act currently in force.

5.1 Those individuals who are Members of the Staff Constituency pursuant to paragraph 7.2.3 of this constitution (academic staff under an honorary contract with the Trust) shall be members of a Staff Class detailed in paragraphs 1, 2 and 3 above as appropriate.

6. **Continuous Employment**

6.1 For the purposes of paragraph 7.1.2 and 7.2 of this constitution, Chapter 1 of Part 14 of the Employment Rights Act 1996 shall apply for the purposes of determining whether an individual has been continuously employed by the Trust or has continuously exercised functions for the purposes of the Trust.

7. **Exercise of Functions**

7.1 For the purposes of paragraph 7.2 of this constitution it shall be for the Trust in its absolute discretion to determine whether an individual exercises functions for the purposes of the Trust and whether that individual has done so continuously for a period of at least twelve months.

ANNEX 3
THE PATIENTS AND CARERS CONSTITUENCY

The Patients and Carers Constituency is not divided into classes. The minimum number of Members of the Patients and Carers Constituency is 3731.

Comment [A23]: Following discussion with the Trust, the Patients and Carers Constituency is no longer divided into classes. This is intended to foster a more inclusive approach and limit any artificial boundaries that could arise through having separate classes and therefore separate governor representation.

We have discussed with the Trust Secretary the requirement for the Trust to take steps to ensure that carers are represented, using the Trust's Membership Strategy and otherwise.

Comment [A24]: We have reached this number by adding together the minimum numbers for the previous classes. However there was not previously a minimum number specified for the non-local patients class. You may therefore wish to increase this number to take account of non-local patient members (although there is no obligation to do so, and as per our comment against Annex 1, the minimum numbers in this Constitution are already relatively high).

ANNEX 4
COMPOSITION OF COUNCIL OF GOVERNORS

	Electing/Appointing Body	Number of Governors	Total
1.	Public Constituencies		
	Bristol	5	
	South Gloucestershire	2	
	North Somerset	2	
	Rest of England and Wales	2	11
2.	Staff Constituency		
	Medical and Dental Staff Class	1	
	Nursing and Midwifery Staff Class	[3]	
	Other Clinical Healthcare Staff Class	1	
	Non-Clinical Healthcare Staff Class	[3]	8
3.	Patients and Carers Constituency	12	12
4.	Appointed Governors		
	<u>Local Authority</u>		
	Bristol City Council	1	
	<u>Universities</u>		
	University of Bristol	1	
	University of West of England	1	
	<u>Partnership Organisations</u>		
	Avon and Wiltshire Mental Health Partnership NHS Trust	1	
	South Western Ambulance Service NHS Foundation Trust	1	
	Joint Union Committee	1	
	The Care Forum/Voscur	2	
	University Hospitals Bristol NHS Foundation Trust Youth Council	2	

Comment [A25]: Suggested amendment for consideration in light of 26/11/13 Constitution Task and Finish Group.

	[Local Healthwatch]	[1]	11
	Total Number of Governors		[42]

Comment [A26]: Added in line with 26/11/13 Constitution Task and Finish Group minutes.

Comment [A27]: TBC when final number of governors approved

1. Appointed Governors

- 1.1 Each appointing body shall be entitled to appoint a Governor or Governors (as set out in the table above) in accordance with a process of appointment agreed by it with the Trust. The absence of any such agreed process of appointment shall not prevent an appointing body from appointing it Governor(s).
- 1.2 If Bristol City Council declines or fails to appoint a Governor within three months of being requested to do so by the Trust, the Trust shall consult each local authority whose area includes the whole or part of the Area of the Trust and the Trust in its absolute discretion may extend an invitation to any of those local authorities to appoint a Governor in substitution for Bristol City Council which has failed or declined to do so.
- 1.3 At the end of the term of appointment of that Governor the Trust shall in its absolute discretion decide whether to permit Bristol City Council to appoint a Governor for the next period of office (provided it remains eligible to do so) or to invite the local authority which had appointed a Governor in substitution to do so.

ANNEX 5
THE MODEL ELECTION RULES

ANNEX 6
STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE COUNCIL OF
GOVERNORS

ANNEX 7
STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE BOARD OF
DIRECTORS

ANNEX 8
GOVERNORS' CODE OF CONDUCT

ANNEX 6

Standing Orders for the Practice and Procedure of the Council of Governors

**THE UNIVERSITY HOSPITALS BRISTOL NHS
FOUNDATION TRUST**

Standing Orders

COUNCIL OF GOVERNORS

INTERPRETATION

- 1.1 In these Standing Orders, the provisions relating to Interpretation in the Constitution shall apply and the words and expressions defined in the Constitution shall have the same meaning.

2. THE COUNCIL OF GOVERNORS

3. MEETINGS OF THE COUNCIL OF GOVERNORS

3.1 Calling Meetings

- 3.1.1 Save in the case of emergencies or the need to conduct urgent business, the Secretary shall give at least fourteen days written notice of the date and place of every meeting of the Council of Governors to all Governors. Notice will also be published on the Trust's website.
- 3.1.2 The Secretary shall ensure that within the meeting cycle of the Council of Governors, general meetings are called at appropriate times to consider matters as required by the 2006 Act and the Constitution.
- 3.1.3 If the Chair fails to call a meeting of the Council of Governors after a requisition for that purpose, signed by at least one-third of the whole number of the Council of Governors has been presented to him at Trust Headquarters, such one third or more members of the Council of Governors may forthwith call a meeting.

- 1.1 **Admission of the Public and the Press**– The meetings of the Council of Governors shall be open to members of the public and press unless the Council of Governors decides otherwise in relation to all of the meeting for reasons of confidentiality, or on other proper grounds, or for other special reasons. Matters to be dealt with by the Council of Governors following the exclusion of members of the public and/or press shall be confidential to the members of the Council of Governors. Governors and any employees 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.

- 1.2 In the event that the public and press are admitted to all or part of a meeting by reason of SO 3.1 above, the Chair (or Deputy Chair) shall give such directions as he 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 Council's business shall be conducted without interruption and disruption and the public will be required to withdraw upon the Council of Governors resolving "that in the interests of public order the meeting adjourn for (*the period to be specified*) to enable the Board to complete business without the presence of the public".

The Trust may make such arrangements from time to time as it sees fit with regards to the extending of invitations to observers to attend and address any of the Council meetings.

- 1.3 Nothing in these Standing Orders shall be construed as permitting the introduction by the public or press representatives of recording, transmitting, video or small apparatus into meetings of the Council of Governors. Such permission shall be granted only upon resolution of the Trust.
- 3.2 The Council of Governors may agree further provisions in respect of the admission of the public and the press, to be set out in a policy.
- 3.3 **Chair of Meetings** – The Chair of the Trust, or in his absence, the Deputy Chair, is to preside at meetings of the Council of Governors.
- 3.4 The Deputy-Chair may preside at meetings of the Council of Governors in the following circumstances:

- 3.4.1 When there is a need for someone to have the authority to chair any meeting of the Council of Governors when the Chair is not present.
 - 3.4.2 On those occasions when the Council of Governors is considering matters relating to Non-Executive Directors, and it would be inappropriate for the Chair to preside.
 - 3.4.3 When the remuneration, allowance and other terms and conditions of the Chair are being considered.
 - 3.4.4 When the appointment of the Chair is being considered, should the current Chair be a candidate for re-appointment.
 - 3.4.5 On occasions when the Chair declares a pecuniary interest that prevents him from taking part in the consideration or discussion of a matter before the Council of Governors.
- 3.5
- 3.6 **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.
 - 3.7 **Agenda** – A Governor desiring a matter to be included on an agenda shall specify the question or issue to be included by request in writing to the Chair or Secretary at least three clear business days before Notice of the meeting is given. Requests made less than three days before the Notice is given may be included on the agenda at the discretion of the Chair.
 - 3.8 **Notices of Motion** – A Governor desiring to move or amend a motion shall send a written notice thereof at least ten clear days before the meeting to the Chair or Secretary, 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 in accordance with Standing Order 3.7, subject to the Chair's discretion.
 - 3.9 **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.
 - 3.10 **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 six calendar months shall be in writing, be in accordance of Standing Order 3.8 and shall bear the signature of the Governor who gives it and also the signature of four 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 six months, however the Chair may do so if he considers it appropriate.
 - 3.11 **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.
 - 3.12 When a motion is under discussion or immediately prior to discussion it shall be open to a Governor to move:
 - 3.12.1 An amendment to the motion.
 - 3.12.2 The adjournment of the discussion or the meeting.
 - 3.12.3 That the meeting proceed to the next business.

3.12.4 That the motion be now put.

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.

- 3.13 **Chair's Ruling** – Statements of Governors made at meetings of the Council of Governors shall be relevant to the matter under discussion at the material time and the decision of the Chair of the meeting on questions of order, relevancy, regularity and any other matters shall be observed at the meeting.

Save as permitted by law, at any meeting the person presiding shall be the final authority on the interpretation of Standing Orders (on which he should be advised by the Chief Executive).

- 3.14 **Voting** – Save as otherwise provided in the Constitution and/or the 2006 Act, if the Chair so determines or if a Governor requests, a question at a meeting shall be determined by a majority of the votes of the Governors present and voting on the question and, in the case of any equality of votes, the person presiding shall have a casting vote.
- 3.15 All questions put to the vote shall, at the discretion of the person presiding, 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.
- 3.16 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.
- 3.17 If a Governor so requests, his/her vote shall be recorded by name upon any vote (other than by paper ballot).
- 3.18 In no circumstances may an absent Governor vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.19 **Minutes** – The Minutes of the proceedings of a matter shall be drawn up and submitted for agreement at the next ensuing meeting where they will be signed by the person presiding at it.
- 3.20 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.
- 3.21 **Suspension of Standing Orders** – Except where this would contravene any statutory provision, or any provision of the Constitution, any one or more of the Standing Orders may be suspended at any meeting provided that at least two thirds of the Council of Governors are present, including one Public Governor, one Staff Governor and one Patients and Carers Governor, and that a majority of those present vote in favour of suspension.
- 3.22 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.
- 3.23 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Governors.
- 3.24 No formal business may be transacted while Standing Orders are suspended.
- 3.25 **Record of Attendance** – the names of the Governors present at the meeting shall be recorded in the minutes.

- 3.26 **Quorum** – A meeting of the Council of Governors shall be quorate and quoracy shall require that there shall be present at the meeting not less than 50% of all Governors and of those not less than 51% shall be Elected Governors.
- 3.27 A Governor who has declared a non-pecuniary interest in any matter may participate in the discussion and consideration of the matter but may not vote in respect of it: in these circumstances the Governor will count towards the quorum of the meeting. If a Governor has declared a pecuniary interest in any matter, the Governor must leave the meeting room, and will not count towards the quorum of the meeting, during the consideration, discussion and voting on the matter. 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.
- 3.28 Subject to Standing Orders in relation to interests, any Director or their nominated representatives shall have the right to attend meetings of the Council of Governors and, subject to the overall control of the Chair, to speak to any item under consideration.

4. **COMMITTEES**

- 4.1 Except as required by paragraph 10.2 of this Annex 6, the Council of Governors shall exercise its functions in general meeting and shall not delegate the exercise of any function or any power in relation to any function to a committee.

5. **DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS**

- 5.1 **Declaration of Interests** – in accordance with the Constitution, Governors are required to declare formally any direct or indirect pecuniary interest and any other interest which is relevant and material to the business of the Trust. The responsibility for declaring an interest is solely that of the Governor concerned.
- 5.2 A Governor must declare to the Secretary:
- 5.2.1 any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter concerning the Trust, and
 - 5.2.2 any interests which are relevant and material to the business of the Trust.
- 5.3 Such a declaration shall be made by completing and signing a form, as prescribed by the Secretary from time to time setting out any interests required to be declared in accordance with the Constitution or these Standing Orders and delivering it to the Secretary within 28 days of a Governor's election or appointment or otherwise within seven days of becoming aware of the existence of a relevant or material interest. The Secretary shall amend the Register of Interests upon receipt of notification within three working days.
- 5.4 If a Governor is present at a meeting of the Council of Governors and has an interest of any sort in any matter which is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not vote on any question with respect to the matter and, if he has declared a pecuniary interest, he shall not take part in the consideration or discussion of the matter. The provisions of this paragraph are subject to paragraph 5.9.
- 5.5 "relevant and material" interests may include but may not be limited to the following:
- 5.5.1 directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies);

- 5.5.2 ownership or part-ownership or directorships of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
 - 5.5.3 majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
 - 5.5.4 a position of authority in a charity or voluntary organisation in the field of health and social care;
 - 5.5.5 any connection with a voluntary or other organisation contracting for or commissioning NHS services;
 - 5.5.6 any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Trust, including but not limited to, lenders or banks;
 - 5.5.7 research funding/grants that may be received by an individual or their department;
 - 5.5.8 interests in pooled funds that are under separate management.
- 5.6 Any travelling or other expenses or allowances payable to a Governor in accordance with this Constitution shall not be treated as a pecuniary interest.
- 5.7 Subject to any other provision of this Constitution, a Governor shall be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:
- 5.7.1 he, or a nominee of his, 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
 - 5.7.2 he is a partner, associate or employee of any person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the same.
- 5.8 A Governor shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:
- 5.8.1 of his membership of a company or other body, if he has no beneficial interest in any securities of that company or other body;
 - 5.8.2 of an interest in any company, body, or person with which he is connected as mentioned in paragraphs 5.2, 5.5 and 5.7, 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.
- 5.9 Where a Governor:
- 5.9.1 has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body; and
 - 5.9.2 the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and
 - 5.9.3 if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class;

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

- 5.10 In the case of persons living together the interest of one partner or spouse shall, if known to the other, be deemed for the purposes of these Standing Orders to be also an interest of the other.
- 5.11 If Governors have any doubt about the relevance of an interest, this should be discussed with the Secretary.
- 5.12 **Register of Interests** - the Secretary shall record any declarations of interest made in a Register of Interests kept by him in accordance with paragraph 36 of the Constitution. Any interest declared at a meeting shall also be recorded in the minutes of the meeting.
- 5.13 The Register will be available for inspection by members of the public free of charge at all reasonable times. A person who requests it is to be provided with a copy or extract from the register. If the person requesting a copy or extract is not a member of the Trust then a reasonable charge may be made for doing so.

6. **STANDARDS OF BUSINESS CONDUCT**

- 6.1 **Policy** – in relation to their conduct as a Governor of the Trust, each Governor must comply with the Code of Conduct for Governors. In particular, the Trust must be impartial and honest in the conduct of its business and its office holders and staff must remain beyond suspicion. Governors are expected to be impartial and honest in the conduct of official business.
- 6.2 **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 is himself 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 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.
- 6.3 A Governor shall not solicit for any person any appointment in the Trust.

7. **REMUNERATION**

- 7.1 Governors are not to receive remuneration.

8. **PAYMENT OF EXPENSES TO GOVERNORS**

- 8.1 The Trust will pay travelling expenses to Governors at the prevalent NHS Public Transport rate for attendance at General Meetings of the Governors, or any other business authorised by the Secretary as being under the auspices of the Council of Governors.
- 8.2 Expenses will be authorised and reimbursed through the Secretary's office on receipt of a completed and signed expenses form provided by the Secretary.
- 8.3 A summary of expenses paid to Governors will be published in the Annual Report.

9. **MISCELLANEOUS**

- 9.1 **Review of Standing Orders** – These Standing Orders shall be reviewed annually by the Council of Governors and any requirements for amendments must be directed to the joint meeting with the Board of Directors.
- 9.2 **Deputy-Chair** – In relation to any matter touching or concerning the Council of Governors or a Governor outside a meeting of the Council of Governors, which arises

the Deputy-Chair may exercise such power as the Chair would have in those circumstances.

9.3 **Notice** – Any written notice required by these Standing Orders shall be deemed to have been given on the day the notice was sent to the recipient.

9.4 **Confidentiality** – A Governor shall not disclose any matter reported to the Council of Governors notwithstanding that the matter has been reported or action has been concluded, if the Council of Governors shall resolve that it is confidential.

10. **COUNCIL OF GOVERNORS : NOMINATIONS AND APPOINTMENTS COMMITTEE**

10.1 The Chair and other Non-Executive directors shall be appointed following a process of open competition conducted in accordance with a policy to be agreed by the Council of Governors.

10.2 The Council of Governors shall establish a committee of its members to be called the Nominations and Appointments Committee (“the Committee”) to discharge those functions in relation to the selection of the Chair and Non-Executive Directors described in Terms of Reference to be approved by the Council of Governors.

ANNEX 7

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

**UNIVERSITY HOSPITALS BRISTOL NHS
FOUNDATION TRUST**

Standing Orders

BOARD OF DIRECTORS

INTERPRETATIONS AND DEFINITIONS

- 1.1 Save as otherwise permitted by law, at any meeting the Chair of the Trust shall be the final authority on the interpretation of Standing Orders (on which he should be advised by the Chief Executive).
- 1.2 All references in these Standing Orders to the masculine gender shall be read equally applicable to the feminine gender.
- 1.3 For convenience, and unless the context otherwise requires, the terms and expressions contained within the Interpretations and Definitions section of the Constitution at page 4 are incorporated and are deemed to have been repeated here verbatim for the purposes of interpreting words contained in this Annex 8 and in addition:

"AUDIT COMMITTEE" means a committee whose functions are concerned with providing the Trust Board with a means of independent and objective review and monitoring financial systems and information, quality and clinical effectiveness, compliance with law, guidance and codes of conduct, effectiveness of risk management, the processes of governance and the delivery of the Board assurance framework.

"COMMITTEE" means a committee or sub-committee appointed by the Trust.

"COMMITTEE MEMBERS" shall be persons formally appointed by the Trust to sit on or to chair specific committees.

"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.

"FUNDS HELD ON TRUST" means those funds which the Trust holds at its date of incorporation, receives on distribution by statutory instrument, or chooses subsequently to accept under powers derived under Schedule 6, paragraph 8 of the 2006 Act. Such funds may or may not be charitable.

"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.

"NOMINATED OFFICER" means an Officer charged with the responsibility for discharging specific tasks within Standing Orders and standing financial instructions.

"OFFICER" means an employee of the Trust or any other person holding a paid appointment or office with the Trust.

"SFIs" means standing financial instructions.

"SOs" means Standing Orders.

2. THE BOARD

- 2.1 All business shall be conducted in the name of the Trust.
- 2.2 All funds received in trust shall be held in the name of the Trust as corporate trustee.
- 2.3 The power of the Trust shall be exercised in public or private session as provided for in SO 3.
- 2.4 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 Schedule of Matters reserved to the Board and Scheme of Delegation and have effect as if incorporated into the Standing Orders.

3. MEETINGS OF THE BOARD

- 3.1 **Admission of the Public and the Press** – The meetings of the Board of Directors shall be open to members of the public and press unless the Board decides otherwise in relation to all of the meeting for reasons of confidentiality, or on other proper grounds, or for other special reasons. Matters to be dealt with by the Board following

the exclusion of members of the public and/or press shall be confidential to the members of the Board. Directors and any employees 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.

- 3.2 In the event that the public and press are admitted to all or part of a Board meeting by reason of SO 3.1 above, the Chair (or Deputy Chair) shall give such directions as he 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 Board's business shall be conducted without interruption and disruption and the public will be required to withdraw upon the Board resolving "that in the interests of public order the meeting adjourn for (*the period to be specified*) to enable the Board to complete business without the presence of the public".
- 3.3 The Board of Directors may agree further provisions in respect of the admission of the public and the press, to be set out in a policy.

Observers at Board Meetings

- 3.3.1 The Trust may make such arrangements from time to time as it sees fit with regards to the extending of invitations to observers to attend and address any of the Board meetings.
- 3.4 Nothing in these Standing Orders shall be construed as permitting the introduction by the public or press representatives of recording, transmitting, video or small apparatus into meetings of the Board or Committee. Such permission shall be granted only upon resolution of the Trust.
- 3.5 **Calling of Meetings** – Ordinary meetings of the Board shall be held at such times and places as the Board determines.
- 3.6 The Chair of the Trust may call a meeting of the Board 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 Directors, 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 at the Trust's Headquarters, such one third or more Directors may forthwith call a meeting.
- 3.7 **Notice of Meetings** – Before each meeting of the Board, a written 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 behalf, shall be delivered to every Director, or sent by post to the usual place of residence of such Director, so as to be available to him at least three clear days before the meeting.
- 3.8 Want of service of the notice on any Director shall not affect the validity of a meeting.
- 3.9 In the case of a meeting called by Directors in default of the Chair, the notice shall be signed by those Directors and no business shall be transacted at the meeting other than that specified in the notice, or emergency motions permitted under SO 3.20.1.
- 3.10 Agendas will normally be sent to members six 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. Failure to serve such a notice on more than three Directors will invalidate the meeting. A notice shall be presumed to have been served one day after posting.
- 3.11 Before any meeting of the Board which is to be held in public, a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed on the Trust's website at least three clear days before the meeting.

- 3.12 **Setting the Agenda** – The Board may determine that certain matters shall appear on every agenda for a meeting and shall be addressed prior to any other business being conducted. (Such matters may be identified within these Standing Orders or following subsequent resolution shall be listed in an Appendix to the Standing Orders).
- 3.13 A Director desiring a matter to be included on an agenda shall make his/her request in writing to the Chair at least twelve 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 twelve days before a meeting may be included on the agenda at the discretion of the Chair.
- 3.14 **Petitions** - Where a petition has been received by the Trust, the Chair of the Board shall include the petition as an item for the agenda of the next Board meeting.
- 3.15 **Chair of Meeting** – At any meeting of the Board, the Chair of the Board, if present, shall preside. If the Chair is absent from the meeting the Deputy-Chair, if there is one and he/she is present, shall preside. If the Chair and Deputy-Chair are absent, such Non-Executive as the Directors present shall choose shall preside.
- 3.16 If the Chair is absent temporarily on the grounds of a declared conflict of interest the Deputy-Chair, if present, shall preside. If the Chair and Deputy-Chair are absent, or are disqualified from participating, such Non-Executive Director as the Directors present shall choose shall preside.
- 3.17 **Notices of Motion** – A Director of the Board desiring to move or amend a motion shall send a written notice thereof at least twelve clear days before the meeting to the Chief Executive, who shall ensure that it is brought to the immediate attention of the Chair. The Chief Executive shall insert in the agenda for the meeting all notices so received, subject to the notice being permissible under the appropriate regulations. Subject to SO 3.21.8, this paragraph shall not prevent any motion being moved during the meeting without notice on any business mentioned on the agenda.
- 3.18 **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.
- 3.19 **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 six calendar months shall bear the signature of the Director who gives it and also the signature of three other Board Directors and, before considering any such motion, the Board may refer the matter to any appropriate Committee or the Chief Executive for recommendation. When any such motion has been disposed of by the Board, it shall not be competent for any Director other than the Chair to propose a motion to the same effect within six months, however the Chair may do so if he/she considers it appropriate. This Standing Order 3.19 shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the Chief Executive.
- 3.20 **Motions** - A motion may be proposed by the Chair or any Director present at the meeting. Such motion shall be seconded by another Director. The mover of a motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.

Emergency Motions

- 3.20.1 Subject to the agreement of the Chair and SO 3.10 below, a Director may give written notice of an emergency motion after the issue of the notice of meeting and agenda (by reason of SO 3.6 and SO 3.9), up to one hour before the time fixed for the meeting. The notice shall state the grounds of urgency. At the Chair's discretion, the emergency motion shall be declared to the Board at the commencement of the business of the meeting as an additional item included on the agenda. The Chair's decision to include the item shall be final.

- 3.21 When a motion is under discussion or immediately prior to discussion it shall be open to a Director to move:
- 3.21.1 an amendment to the motion;
 - 3.21.2 the adjournment of the discussion or the meeting;
 - 3.21.3 that the meeting proceed to the next business; (*)
 - 3.21.4 the appointment of an ad hoc committee to deal with a specific item of business;
 - 3.21.5 that the motion be now put; (*)
 - 3.21.6 that a Director be not further heard; (*)
 - 3.21.7 that the public be excluded pursuant to SO 3.1;
 - 3.21.8 *in the case of sub-paragraphs denoted by (*) above, to ensure objectivity motions may only be put by a Director who has not previously taken part in the debate and who is eligible to vote.
 - 3.21.9 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. 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;
 - 3.21.10 the Chair may (at his/her discretion) refuse to admit any motion of which notice was not given in accordance with SO 3.16, other than a motion relating to:
 - (a) the reception of a report;
 - (b) consideration of any item of business before the Trust Board;
 - (c) the accuracy of minutes;
 - (d) that the Board proceed to next business;
 - (e) that the Board adjourn;
 - (f) that the question be now put.
- 3.22 **Chair's Ruling** - Statements of Directors made at meetings of the Board shall be relevant to the matter under discussion at the material time and the decision of the Chair of the meeting on questions of order, relevancy, regularity and any other matter shall be final.
- 3.23 **Voting** - Save as provided in SO 3.32 every question at a meeting shall be determined by a majority of the votes of the Chair of the meeting and Directors present and voting on the question and, in the case of the number of votes for and against a motion being equal, the Chair of the meeting (or any other person presiding in accordance with the terms of these Standing Orders) shall have a second or casting vote.
- 3.24 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 the Chair so directs or it is proposed and seconded by any of the Directors present.

- 3.25 If at least one-third of the Directors present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Director present voted or abstained.
- 3.26 If a Director so requests, his/her vote shall be recorded by name upon any vote (other than by paper ballot).
- 3.27 In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.28 An Officer who has been appointed formally by the Board 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. An Officer attending the Board 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.
- 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 Director' wishes. Where providing a record of a public meeting the minutes shall be made available to the public as required by Code of Practice on Openness in the NHS.
- 3.32 **Joint Directors** – Where the Office of a Director is shared jointly by more than one person:
- 3.32.1 either or both of those persons may attend or take part in meetings of the Board:
- 3.32.2 if both are present at a meeting they should cast one vote if they agree:
- 3.32.3 in the case of disagreements no vote should be cast:
- 3.32.4 the presence of either or both of those persons should count as the presence of one person for the purposes of SO 3.38 (Quorum).
- 3.33 **Suspension of Standing Orders** – Except where it would contravene any statutory provision or any provision in the Constitution, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Board are present, including one Executive Director and one Non-Executive Director, and at least two-thirds of those present vote in favour of suspension.
- 3.34 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.
- 3.35 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chair and Directors of the Board.
- 3.36 No formal business may be transacted while Standing Orders are suspended.
- 3.37 The Audit and Assurance Committee shall review every decision to suspend Standing Orders.
- 3.38 **Record of Attendance** – The names of the Chair and Directors present at the meeting shall be recorded in the minutes.

- 3.39 **Quorum** – No business shall be transacted at a meeting unless at least one-third of the whole number of the Chair and Directors appointed, (including at least one Non-Executive Director and one Executive Director) is present.
- 3.40 An Officer in attendance for an Executive Director but without formal acting up status may not count towards the quorum.
- 3.41 If the Chair or Director 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 6 or 7) he 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. The above requirement for at least one Executive Director to form part of the quorum shall not apply where the Executive Directors are excluded from a meeting (for example when the Board considers the recommendations of the Remuneration and Nominations Committee).

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

- 4.1 Subject to the Constitution, or any relevant statutory provision, the Board may make arrangements for the exercise, on behalf of the Board, of any of its functions:
- 4.1.1 by a committee, sub-committee or,
 - 4.1.2 appointed by virtue of Standing Order 5.1 or 5.2 below or by an Officer of the Trust,
 - 4.1.3 or by another body as defined in Standing Order 4.2 below,
- in each case subject to such restrictions and conditions as the Trust thinks fit.
- 4.2 Where a function is delegated to a third party, the Trust has responsibility to ensure that the proper delegation is in place. In other situations, i.e. delegation to committees, sub committees or Officers, the Trust retains full responsibility.
- 4.3 **Emergency Powers** – The powers which the Board has retained to itself within these Standing Orders (Standing Order 2.4) may in emergency be exercised by the Chief Executive and the Chair after having consulted at least two Non-Executive Directors. The exercise of such powers by the Chief Executive and Chair shall be reported to the next formal meeting of the Board in public or private session (as appropriate) for ratification.
- 4.4 **Delegation to Committees** – The Board shall agree from time to time to the delegation of executive powers to be exercised by 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.
- 4.5 **Delegation to Officers** – Those functions of the Trust which have not been retained as reserved by the Board or delegated to a 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 an accountability to the Trust.
- 4.6 The Chief Executive shall prepare a Scheme of Delegation identifying his/her proposals which shall be considered and approved by the Board, subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendment to the Scheme of Delegation that shall be considered and approved by the Board as indicated above.

- 4.7 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the Finance Director to provide information and advise the Board in accordance with statutory or Monitor requirements. Outside these requirements the roles of the Finance Director shall be accountable to the Chief Executive for operational matters.
- 4.8 The arrangements made by the Board as set out in the Schedule of Matters reserved to the Board and Scheme of Delegation shall have effect as if incorporated in these Standing Orders.
- 4.9 **Overriding Standing Orders** – 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 Directors of the Board and staff have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive as soon as possible.

5. COMMITTEES

- 5.1 Subject to the Constitution, (and to any guidance issued by the Department of Health applicable to Foundation Trusts or as may be given by the Monitor), the Trust may appoint committees of the Trust, or together with one or more Health Authorities or other Trusts, appoint joint committees, consisting wholly or partly of the Chair and members of the Trust or other health service bodies or wholly of persons who are not members of the Trust or other health service bodies in question.
- 5.2 A committee or joint committee appointed under SO 5.1 may, subject to such directions as may be given by the Trust or other health service bodies in question, appoint sub-committees consisting wholly or partly of members of the committee or joint committee (whether or not they are members of the Trust or other health service bodies in question); or wholly of persons who are not members of the Trust or other health service bodies or the committee of the Trust or other health service bodies in question.
- 5.3 The Standing Orders of the Trust, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees established by the Trust. In which case the term “Chair” is to be read as a reference to the Chair of the committee as the context permits, and the term “member” is to be read as a reference to a member of the committee also as the context permits. (There is no requirement to hold meetings of committees established by the Trust in public).
- 5.4 Each such committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board), as the Board shall decide and shall be in accordance with any applicable legislation and regulation or direction. Such terms of reference shall have effect as if incorporated into the Standing Orders.
- 5.5 The Board of Directors may appoint committees consisting wholly or partly of persons who are not executive directors or non-executive directors of the trust for any purpose that is calculated or likely to contribute to, or assist it in the exercise of its powers. It may delegate powers to such committees only if the membership consists wholly of directors.
- 5.6 Where committees are authorised to establish sub-committees they may not delegate executive powers to the sub-committee unless expressly authorised by the Board.
- 5.7 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.

- 5.8 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 the Constitution, the Terms of Reference and any applicable regulations and directions.

The Trust Board of Directors shall establish an Audit Committee, Nomination and Appointments Committee, and a Remuneration Committee as standing Committees of the Trust Board of Directors. In addition, the Trust Board of Directors shall establish such other Committees as it deems necessary and appropriate from time to time.

6 DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

- 6.1 **Declaration of Interests** - The Constitution, the 2006 Act and the Code of Conduct and Accountability requires Board Directors to declare interests which are relevant and material to the NHS board of which they are a director. All existing Board Directors should declare such interests. Any Board Directors appointed subsequently should do so on appointment.

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

6.2.1 directorships, including non-executive directorships held in private companies or public limited companies (with the exception of those of dormant companies);

6.2.2 ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;

6.2.3 majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;

6.2.4 a position of trust in a charity or voluntary organisation in the field of health and social care;

6.2.5 any connection with a voluntary or other organisation contracting for NHS services;

6.2.6 any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Trust including but not limited to, lenders or banks;

6.2.7 interests in pooled funds that are under separate management;

6.2.8 research funding/grants that may be received by an individual or their department;

6.2.9 any other commercial interest in the decision before the meeting.

- 6.3 At the time Board Directors' interests are declared, they should be recorded in the Board minutes. Any changes in interests should be declared at the next Board meeting following the change occurring and recorded in the minutes of that meeting.

- 6.4 Board Directors' directorships of companies likely or possibly seeking to do business with the NHS should be published in the Board's Annual Report. The information should be kept up to date for inclusion in succeeding annual reports.

- 6.5 During the course of a Board meeting, if a conflict of interest is established, the Director concerned should withdraw from the meeting and play no part in the relevant discussion or decision.

- 6.6 There is no requirement in the Code of Conduct and Accountability for the interests of Board Directors' spouses or partners to be declared. However SO 7 requires that the interest of Directors' spouses, if living together, in contracts should be declared.

Therefore the interests of Board Directors' spouses and cohabiting partners should also be regarded as relevant.

- 6.7 If Board Directors have any doubt about the relevance of an interest, this should be discussed with the Chair or the 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.
- 6.8 **Register of Interests** - The Chief Executive will ensure that a Register of Interests is established to record formally declarations of interests of Board Directors. In particular, the Register will include details of all directorships and other relevant and material interests which have been declared by both Executive and Non-Executive Directors, as defined in Standing Order 6.2.
- 6.9 These details will be kept up to date by means of an annual review of the Register in which any changes to interests declared during the preceding twelve months will be incorporated.
- 6.10 The Register will be available to the public in accordance with paragraph 36 and 37 of the Constitution and the Chief Executive 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.
- 6.11 All senior managers and clinicians have a duty to ensure that declaration of interests are made which could materially affect the outcome of decisions made by them. Where in doubt, all senior managers and clinicians should contact their respective Directors for clarification.

7 DISABILITY OF CHAIR AND DIRECTORS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST

- 7.1 Subject to the following provisions of this Standing Order, if the Chair or a Director has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust at which the contract or other matter is the subject of consideration, he 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.
- 7.2 The Board may exclude the Chair or a Director of the Board from a meeting of the Board while any contract, proposed contract or other matter in which he has a pecuniary interest, is under consideration.
- 7.3 Any remuneration, compensation or allowances payable to the Chair or a Director by virtue of the 2006 Act shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- 7.4 For the purpose of this Standing Order the Chair or a Director shall be treated, subject to SO 7.5, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:
 - 7.4.1 he, or a nominee of his, 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
 - 7.4.2 he is a partner / associate 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;

- 7.4.3 and in the case of persons living together as partners, the interest of one partner shall, if known to the other, be deemed for the purposes of this Standing Order to be also an interest of the other.
- 7.5 The Chair or a Director shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:
- 7.5.1 of his membership of a company or other body, if he has no beneficial interest in any securities of that company or other body;
- 7.5.2 of an interest in any company, body or person with which he is connected as mentioned in SO 7.4 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a Director in the consideration or discussion of or in voting on, any question with respect to that contract or matter.
- 7.6 Where the Chair or a Director has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and 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 body, whichever is the less, and if the share capital is of more than one class, the total nominal value of shares of any one class in which he 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 the 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.
- 7.7 This SO 7 applies to a committee or sub-committee and to a joint committee as it applies to the Trust and applies to a director of any such committee or sub-committee (whether or not he is also a Director of the Trust) as it applies to a Director of the Trust.

8 STANDARDS OF BUSINESS CONDUCT POLICY

- 8.1 Staff should comply with the national guidance contained in HSG 1993/5 "Standards of Business Conduct for NHS Staff". This section of Standing Orders should be read in conjunction with this document.
- 8.2 **Interest of Officers in Contracts** - If it comes to the knowledge of an Officer of the Trust that a contract in which he has any pecuniary interest not being a contract to which he is himself a party, has been, or is proposed to be, entered into by the Trust he shall, at once, give notice in writing to the Chief Executive or the Secretary of the fact that he is interested therein. In the case of 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.
- 8.3 An Officer should also declare to the Chief Executive any other employment or business or other relationship of his, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.
- 8.4 The Trust requires interests, employment or relationships declared, to be entered in a register of interests of staff.
- 8.5 **Canvassing of, and Recommendations by, Directors in Relation to Appointments** – Canvassing of Directors of the Trust or of any Committee of the Trust directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of Standing Order 8 shall be included in application forms or otherwise brought to the attention of candidates.

- 8.6 A Director of the 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 8 shall not preclude a Director from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.
- 8.7 Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.
- 8.8 **Relatives of Directors or Officers** – Candidates for any staff appointment under the Trust shall, when making 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.
- 8.9 The Chair and every Director and Officer of the Trust shall disclose to the Chief Executive 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 Board any such disclosure made.
- 8.10 On appointment, Directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Board whether they are related to any other Director or holder of any office in the Trust.
- 8.11 Where the relationship to a Director of the Trust is disclosed, the Standing Order headed 'Disability of Chair and Directors in proceedings on account of pecuniary interest' (SO 7) shall apply.

9 CUSTODY OF SEAL AND SEALING OF DOCUMENTS

- 9.1 **Custody of Seal** – The Common Seal of the Trust shall be kept by the Chief Executive or designated Officer in a secure place.
- 9.2 **Sealing of Documents** – The seal of the Trust shall not be fixed to any documents unless the sealing has been authorised by a resolution of the Board or of a committee, thereof or where the Board has delegated its powers. Where it is necessary that a document be sealed, the seal shall be affixed in the presence of two Directors, one Director and the Secretary or two senior managers (not being from the originating department) duly authorised by the Chief Executive and shall be attested by them.
- 9.3 Before any building, engineering, property or capital document is sealed it must be approved and signed by the Finance Director (or an Officer nominated by him/her) and authorised and countersigned by the Chief Executive (or an Officer nominated by him/her who shall not be within the originating directorate).
- 9.4 **Register of Sealing** – An entry of every sealing shall be made and numbered consecutively in a book provided for that purpose and shall be signed by the persons who shall have approved and authorised the document and those who attested the seal. A report of all applications of the Trust seal shall be made to the Board at least quarterly. (The report shall contain details of the seal number, a description of the document and the date of sealing).

10 SIGNATURE OF DOCUMENTS

- 10.1 Where the signature of any document will be a necessary step in legal proceedings involving the Trust, it shall be signed by the Chief Executive, unless any enactment otherwise requires or authorises, or the Board shall have given the necessary authority to some other person for the purpose of such proceedings.
- 10.2 The Chief Executive or nominated Officer(s) shall be authorised, by resolution of the Board, to sign on behalf of the Trust any agreement or other document not requested to be executed as a deed, the subject matter of which has been approved by the

Board or any committee, sub-committee or standing committee with delegated authority.

11 MISCELLANEOUS

- 11.1 **Standing Orders to be given to Directors and Officers** – It is the duty of the Chief Executive to ensure that existing Directors and Officers and all new appointees are notified of and understand their responsibilities within Standing Orders and standing financial instructions. Updated copies shall be issued to staff designated by the Chief Executive. New designated Officers shall be informed in writing and shall receive copies where appropriate in Standing Orders.
- 11.2 **Documents having the standing of Standing Orders** – standing financial instructions (including provisions as to tendering and contract procedures, disposals and in-house services), Schedule of Matters reserved to the Board and Scheme of Delegation, the Policy on the Register of Interests and Hospitality and the Staff Disciplinary and Appeals Procedures document shall be read in conjunction with the Standing Orders. The Board may also, from time to time, agree and approve policy statements / procedures which will apply to all or specific groups of staff employed by the Trust. The decision to approve such policies and procedures shall be recorded in an appropriate Trust Board minute to be read in conjunction with these Standing Orders.
- 11.3 **Review of Standing Orders** - Standing Orders shall be reviewed annually by the Board and any requirements for amendments must be directed to the joint meeting with the Council of Governors unless paragraph 8.3.1 of Annex 9 applies. The requirement for review extends to all documents having the effect as if incorporated in Standing Orders.
- 11.4 The Board may confirm contracts to purchase from a voluntary organisation or a local authority using appropriate powers under the 2006 Act and shall comply with procedures laid down by the Finance Director which shall be in accordance with this Act.

UNIVERSITY HOSPITALS BRISTOL NHS FOUNDATION TRUST**CODE OF CONDUCT FOR GOVERNORS****1. Introduction**

- 1.1 As defined in law, the Trust's Governors have a formal role in the governance of the Trust, working with the Board of Directors (the Board) to promote the success of the organisation for its members and the public. To support the proper discharge of Governors' statutory duties and to promote the success of the relationship between the Council of Governors (the Council) and the Board, it is essential that Governors adopt high standards of personal conduct. Recognising this, this document sets out the Council's expectations for the way in which the Governors will conduct themselves in all aspects of their role within the Trust.

2. Framework for Council of Governors

- 2.1 The Trust operates within a legal, regulatory and governance framework which includes the NHS Act 2006, the Health and Social Care Act 2012, the Foundation Trust Code of Governance and the Trust's Constitution. The Constitution defines the composition of the Council and the arrangements for appointing (and, where necessary, removing) Governors, and its annexes include the Standing Orders for the Council.
- 2.2 The regulatory and governance framework is supplemented by the Terms of Reference for the Council, the Role Description for Governors and this Code of Conduct. This Code of Conduct, the Terms of Reference and the Role Description are subject to the Constitution; nothing within them shall take precedence over or in any way amend the Constitution or any legal or regulatory requirements. This Code of Conduct is to be read in that context of that legal and regulatory framework.

3. Role of the Council of Governors

- 3.1 The role of the Council is defined in law and in Monitor's regulatory and governance framework. Although the role definition is not repeated here it is important as context for this Code of Conduct to recognise that good governance in the Trust depends upon active and constructive engagement between the Board of Directors and the Council. Such an approach will ensure that the Council is able to discharge its statutory duties, particularly to:
- 3.1.1 hold the non-executive Directors individually and collectively to account for the performance of the Board; and
- 3.1.2 represent the interests of the members as a whole and of the public.

4. Board of Directors/Council of Governors Engagement

- 4.1 The Constitution and the Policy on Board of Directors/Council of Governors Engagement commit the Board and the Council (as a whole and Governors individually) to engaging proactively and constructively with the Board, acting through the Chairman, Senior Independent Director and the Lead Governor where appropriate according to their roles.

4.2 The Council will work with the Board for the best interests of the Trust as a whole, taking into account all relevant advice and information presented to, or requested by, the Council. The Council will not unduly delay responses to proposals or other reports from the Board, acting proactively to agree with the Board the information which the Council will need in order properly to discharge its statutory duties.

5. **Conduct of Governors**

5.1 This section of the Code sets out the conduct which all Governors agree to abide by. These commitments are in addition to compliance with Monitor's requirements, the Code of Governance, the Constitution, Terms of Reference for the Council and Role Description for Governors.

5.1.1 Personal Conduct

Governors agree that they will:

- a) act in the best interests of patients and the Trust as a whole in the delivery of services within relevant financial and operational parameters, seeking at all times to properly discharge their statutory duties;
- b) comply at all times with legal and regulatory requirements and with the Constitution, Standing Orders, relevant Terms of Reference, Role Descriptions and policies;
- c) be honest and act with integrity and probity at all times;
- d) respect and treat with dignity and fairness, the public; patients; relatives; carers; NHS staff and partners in other agencies;
- e) respect and value all Governors and Directors as colleagues;
- f) not seek to profit from their position as a Governor or in any way use their position to gain advantage for any person;
- g) accept responsibility for their actions and generally take seriously the responsibilities which are commensurate with the decision-making rights assigned to the Council through the legal and regulatory framework;
- h) ensure that the interests of the members as a whole and the public are represented and upheld in decision making such that in accordance with the requirements of the Constitution and relevant policies, those decisions are not influenced by gifts or inducements or any interests outside the Trust;
- i) not be influenced in any way and not represent any outside interests which they may hold, including any membership of trade unions or political organisations;
- j) ensure that no person is discriminated against on grounds of religion or belief; ethnic origin; gender; marital status; age; disability; sexual orientation or socio-economic status;

- k) show their commitment to team working by working constructively with their fellow Governors and the Board as well as with their colleagues in the NHS and the wider community;
- l) not make, permit or knowingly allow to be made any untrue; misleading or misrepresentative statement either relating to their own role or to the functions or business of the Trust;
- m) at all times, uphold the values and core principles of the NHS and the Trust as set out in its Constitution;
- n) conduct themselves in a manner which reflects positively on the Trust and not in any manner which could be regarded as bringing it into disrepute;
- o) seek to ensure that the membership of the constituency from which they are elected/their appointing organisation is both properly informed and represented
- p) at all times, uphold the seven principles of public life as set out by the Committee on Standards in Public Life (also known as the Nolan Committee and the Wicks Committee) as below:
 - (i) Selflessness: Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits from themselves; their family or friends or other interested parties.
 - (ii) Integrity: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
 - (iii) Objectivity: In carrying out public business, including making public appointments; awarding contracts or recommending individuals for awards or benefits, holders of public office should make choices on merit.
 - (iv) Accountability: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
 - (v) Openness: Holders of public office should be as open as possible about all the decision and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
 - (vi) Honesty: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
 - (vii) Leadership: Holders of public office shall promote and support these principles by leadership and example.

- q) seek advice from the Chairman or the Secretary on matters relating to the Constitution, governance requirements or conduct, and have regard to the advice given to them.

5.1.2 Confidentiality

Governors agree that they will:

- a) respect the confidentiality of the information they are made privy to as a result of their membership of the Council, except where information is made available in the public domain.
- b) understand, endorse and promote the Trust's Confidentiality and Data Protection Policy in every aspect of their work. A copy of this policy will be provided to each Governor and training will be provided where necessary.
- c) make no public statements on behalf of the Trust or communicate in any way with the media without the prior consent of the Chairman or a designated officer from the Trust's Communications Department.

5.1.3 Declaration of Interests

- a) It is essential for good corporate governance and to maintain public confidence in the Trust that all decision making is robust and transparent. To support this, the Constitution and the Trust's Policy on Declaration of Interests set out requirements for Governors to declare relevant interests (as defined in the Constitution).
- b) Governors will declare interests on request from the Secretary or, as required by the Constitution, whenever they become aware of a potential conflict of interest in respect of a matter being considered by the Council. Governors should seek advice from the Secretary or the Chairman where they are unsure as to whether an interest needs to be declared. Declared interests will be included in a Register of Interests, which will be published.

6. Participation in Meetings and in Training and Development

- 6.1 The Council will hold a number of meetings per year, the number to be determined by the Council. The schedule for these meetings and for other activities will be proposed by the Secretary and is subject to approval by the Council. It is expected that Governors will attend meetings of the Council and of any committees or working groups (including Project Focus Groups) to which they are appointed but it is accepted that there will be occasions on which Governors cannot attend, in which case they will give apologies for absence. The Constitution provides for the Council to remove any Governor from office where he/she fails to attend two consecutive meetings and where the Council is not satisfied that the absence was due to a reasonable cause and that the attendance record will be rectified.
- 6.2 The Board has a statutory duty to take steps to secure that the Governors are equipped with the skills and knowledge they need to discharge their responsibilities appropriately. A programme of training and development will be agreed with the Council and it is expected that Governors will participate in such activities unless, in reasonable circumstances, this is not possible.

7. Upholding this Code of Conduct

- 7.1 Following approval of this Code of Conduct by the Council, Governors agree to comply with all of its content.
- 7.2 Where possible or appropriate, any concerns about the conduct or performance of a Governor will be addressed under the leadership of the Chairman through training, development or other means which are considered appropriate. Where such concerns exist the Chairman will write to the Governor concerned to set out the concerns and the action agreed to rectify or otherwise address them.
- 7.3 The Constitution provides for the circumstances in which a Governor can be removed from office, including where any Governor fails to comply with this Code of Conduct. It is for the Chairman to propose removal from office if this is necessary after all other course of action, including training and development where relevant, have been exhausted. The Constitution provides for an independent review of evidence associated with such a proposal, reflecting the Foundation Trust Code of Governance. As required by the Constitution, it is for the Council to determine (in accordance with rules set out in the Constitution) whether any Governor should be removed from office following a proposal from the Chairman and an independent review if one is commissioned.

Approved by the Council of Governors on [insert date]

To be reviewed not later than [insert date to be not more than 12 months from date of approval]

DRAFT

UNIVERSITY HOSPITALS BRISTOL NHS FOUNDATION TRUST

CODE OF CONDUCT FOR GOVERNORS

DECLARATION OF ACCEPTANCE

I confirm that I have received, read and understood the Code of Conduct for Governors (the Code).

I further confirm that I will comply with the provisions of the Code.

.....
Signature of Governor

.....
Name of Governor

.....
.....
.....
.....
.....
.....
Address for Governor

.....
Date of signature

DRAFT

Return the completed form to the Trust Secretary, University Hospitals Bristol NHS Foundation Trust

UNIVERSITY HOSPITALS BRISTOL NHS FOUNDATION TRUST**POLICY ON BOARD OF DIRECTORS/COUNCIL OF GOVERNORS ENGAGEMENT**

1. Introduction
 - 1.1. It is essential for the success of the Trust for there to be a constructive working relationship between the Board of Directors and the Council of Governors. This can only be achieved through effective engagement, focused on enabling the Directors and Governors to discharge their statutory duties for the benefit of the Trust. This policy document has been agreed by the Board of Directors and the Council of Governors to set out the means by which they will engage with each other.
2. Framework and Governance Structure
 - 2.1. The Trust is established in law as a public benefit corporation and is required by law to have a Board of Directors (the Board), a Council of Governors (the Council) and a membership.
 - 2.2. The detailed governance arrangements are set out in the Trust's Constitution, which is derived from relevant law and reflects (except in respect of any areas in which the Trust has decided to depart from them) the recommendations of the Foundation Trust Code of Governance published by the regulator, Monitor. To supplement the Constitution the Board and the Council have Terms of Reference and there are Role Descriptions for [insert roles]. There is also a Code of Conduct for Governors.
 - 2.3. It is essential for the success of the Trust for the Board and the Council to work constructively together, particularly to ensure that both the Board and Council are able to properly discharge their statutory duties. This policy sets out the matters in respect of which the Board and Council will engage with each other as a minimum and it describes the agreed approach to doing so. The policy also defines the procedure to be adopted in the event of a dispute between the Board and the Council.
3. Approach to Engagement
 - 3.1. The Trust recognises the importance of a constructive relationship between the Board and the Council. Specifically, it is the Board's stated intention to work as closely as possible with the Council on all matters which are of joint interest.
 - 3.2. The Board is also committed to discharging the Trust's statutory duty to equip the Governors with the knowledge and skills which they require in order to discharge their statutory duties, recognising that a properly informed Council will also be better able to contribute to the effective corporate governance of the Trust.
 - 3.3. The Chairman leads the Board and the Council and is responsible for ensuring that there is a constructive relationship between them. The Chairman is also responsible for ensuring that both the Board and the Council receive the information required to fulfil their roles, and sets the agenda for both. In this respect the Chairman has an important role in co-ordinating the business considered by the Board and Council to ensure timely and appropriate engagement.
 - 3.4. The formal commitments made in this policy recognise the Trust's approach to engagement.

4. Purpose of Engagement

- 4.1. The purpose of this policy is, as a minimum, to establish engagement arrangements such that the Governors can properly discharge their statutory duties for the benefit of the Trust. The engagement arrangements described below are therefore focused on this objective, specifically the following statutory duties on Governors:

General Duties:

- 4.1.1. to hold the Non-executive Directors individually and collectively to account for the performance of the Board of Directors; and
- 4.1.2. to represent the interests of the members of the Trust as a whole and of the public.

Specific Duties:

- 4.1.3. appoint and, if appropriate, remove the Chair;
- 4.1.4. appoint and, if appropriate, remove the other Non-executive Directors;
- 4.1.5. determine the remuneration, allowances and other terms and conditions of office of the Chair and the other Non-executive Directors;
- 4.1.6. approve (or not) the appointment of the Chief Executive;
- 4.1.7. appointment and, if appropriate, remove the Auditor;
- 4.1.8. approve "significant transactions" as defined in the Constitution;
- 4.1.9. approve an application by the Trust to enter into a merger, acquisitions, separation or dissolution;
- 4.1.10. provide to the Board the Council's views on the Trust's forward plans, such that the Board must have regard to the views of the Council;
- 4.1.11. decide whether any non-NHS work would significantly interfere with the Trust's principal purpose as defined in the Constitution;
approve (or not) any plans to increase by 5% or more the proportion of the Trust's total income in any financial year attributable to any activities other than the provision of goods and services for the purposes of the health service in England;
- 4.1.12. receive the Trust's annual accounts, any report from the Auditor on them, and the annual report;
- 4.1.13. approve amendments to the Trust's constitution

5. Arrangements for Engagement

- 5.1. To support the proper and effective discharge of the Council's statutory duties as described above the Board and Council have agreed a range of engagement mechanisms, as follows:
- 5.1.1. As recognised in 3.3 above, the Chairman has a formal role in maintaining an ongoing, constructive relationship between the Board and the Council. This includes ensuring that matters are referred efficiently and effectively between the Board and the Council, through setting the agenda for their meetings but also addressing matters informally (and between meetings) where necessary.

- 5.1.2. There is Director and Governor engagement in focus groups established in respect of strategy development, quality of care, and membership.
- 5.1.3. Directors and Governors regularly attend each other's meetings. This reflects the statutory power which Governors have to require a Director to attend a meeting to discuss matters of concern to the Council.
- 5.1.4. It has been agreed that the Council will meet quarterly, immediately following each meeting at which the Board considers the declaration to Monitor for the preceding quarter. This ensures that Governors are able to gain assurance (through challenge to the Board), based on current data and other information, and receive responses in real-time.
- 5.1.5. The Board and the Council discuss a range of issues, including:
 - (a) the Trust's forward plan
 - (b) strategic proposals from the Board
 - (c) clinical and other service priorities
 - (d) proposals for capital developments
 - (e) performance monitoring
 - (f) membership engagement
 - (g) reviews of the quality of services

[Drafting note: the content of 5.1.1 to 5.1.5 above has been drawn from the Trust's Annual Report 2012/13. These paragraphs (along with the remainder of this policy) are therefore subject to confirmation by the Trust to ensure that they remain current. We list below for the Trust's consideration some other means of Director/Governor engagement which we are aware of from our work with other clients. The Trust could also consider the guidance published by Monitor.

- (i) *the agenda and minutes of the Board's meetings are shared with the Council. This is a requirement of the law. The Trust may have implemented this arrangement but we have not seen reference to it so we have not included it above.*
- (ii) *agreement of the information required by the Council in order to discharge its statutory duties, specifically the general duties above*
- (iii) *Governor attendance at meetings of Board committees*
- (iv) *Joint meetings of the Board and Council, to include meetings scheduled appropriately to be part of the strategy and priority development process.*
- (v) *Joint Board and Council development sessions, or attendance of some Directors at development organised for Governors*
- (vi) *Non-executive Director chairs of Board committees providing reports (verbal or written) to the Council (or committees of the Council) to explain the work of the committees and thereby provide assurance to the Council*
- (vii) *Regular, informal meetings between Governors and the Chair and Chief Executive, so that Governors can ask questions about current matters. This assists information exchange and knowledge development but must be carefully managed so as not to detract or be confused with formal meetings/information exchange.*
- (viii) *Regular written briefings from the Board to describe issues considered and decisions taken, to provide assurance to the Council but also to provide a basis for Governors' feedback to members and appointing organisations.*
- (ix) *Governor involvement in the selection process for appointments to the Chair or Non-executive Director roles*
- (x) *Governor's receiving the outcomes from performance appraisals of the Chair and Non-executive Directors.*

- (xi) *Governors reporting formally to the Board (for example, to inform discussions about strategies and priorities) following consultation with members and the public*
- (xii) *Participation by the Chair, Chief Executive and Senior Independent Director in reviews of the performance of the Council]*

6. Resolving Disagreements

[Drafting note: with one amendment we have copied below the dispute resolution procedure from the Constitution. We have removed the provision to repeat the procedure in the event that the dispute is not resolved successfully; this is because we consider that resolution is unlikely to be achieved after the first process and the matter should therefore be referred to the Board as the procedure provides. We have proposed an amendment to the Constitution to refer to this policy.]

- 6.1. Should a dispute arise between the Council and the Board of Directors, then the disputes resolution procedure set out below shall be followed.
 - 6.1.1. The Chair, or Deputy Chair (if the dispute involves the Chair) will first endeavour through discussion with Governors and Directors or, to achieve the earliest possible conclusion, appropriate representatives of them, to resolve the matter to the reasonable satisfaction of both parties.
 - 6.1.2. Failing resolution under 6.1.1 above then the Chair will appoint a special committee comprising equal numbers of Directors and Governors to consider the circumstances and to clearly and concisely produce a recommendation statement to the Council of Governors and Board of Directors with a view to resolving the dispute (the "Recommendation Statement").
 - 6.1.3. The Chair will ensure that the Recommendation Statement, without amendment or abbreviation in any way, is an Agenda Item and Agenda Paper at the next formal meeting of both the Board and Council.
 - 6.1.4. If, in the opinion of the Chair or Deputy Chair (if the dispute involves the Chair), there is no further prospect of a full resolution or, if at any stage in the whole process, in the opinion of the Chair or Deputy Chair, as the case may be, there is no prospect of a resolution (partial or otherwise) then he will advise the Council and the Board accordingly.
 - 6.1.5. On the satisfactory completion of this disputes process the Board of Directors will implement agreed changes.
 - 6.1.6. On the unsatisfactory completion of this disputes process the view of the Board of Directors will prevail.
- 6.2. Nothing in this procedure shall prevent the Council of Governors from making a referral to the Panel (of persons appointed by Monitor) in accordance with paragraph 21 of the Constitution.

UNIVERSITY HOSPITALS BRISTOL NHS FOUNDATION TRUST**REVIEW OF FOUNDATION TRUST CONSTITUTION
DEFINITION OF SIGNIFICANT TRANSACTIONS****1. Introduction**

We, DAC Beachcroft LLP, have been asked to revise the Constitution of University Hospitals Bristol NHS Foundation Trust (the Trust) in a number of respects, including to propose a revised definition of significant transactions. Specifically, we have been asked to put forward a definition of significant transactions based on the model adopted by Salisbury NHS Foundation Trust. This follows a preference expressed by the Trust's Governors for such a model. We have included this definition (revised appropriately for the financial position of the Trust) in the draft Constitution submitted with this paper but we set out below other options for the Trust to consider and some associated issues.

2. Options and Issues to Consider**2.1 Option 1: Salisbury NHS Foundation Trust**

2.1.1 As requested by the Trust's Governors, we propose a definition of significant transactions which is based on the model adopted by Salisbury NHS Foundation Trust. This defines significant transactions by reference to three criteria: (1) income; (2) capital expenditure or receipt; and (3) contracts for services, assets or leases. We highlight that the threshold in respect of each category is lower than the 25% (of income) set out within the currently-approved Constitution. It is for the Trust to determine the criteria and threshold to define significant transactions, but we highlight the fact that, once reduced, it is likely to be difficult to increase the threshold at any point in the future. The reduced threshold will, of course, result in more transactions falling within the definition of significant transactions.

2.1.2 It is also important to note that paragraph 45.4 of the new draft Constitution commits the Directors to informing the Governors of proposed transactions at "the earliest opportunity". The Board and the Council of Governors has a stated commitment to work constructively and collaboratively together in the corporate governance of the Trust in any event, and to reflect this the Board will need to ensure that it keeps the Council of Governors informed of forthcoming potential transactions. It is in the nature of such transactions that the decision-making process is often multi-stage and iterative, and it can be the case that a decision taken at one point in the process can effectively bind the Trust such that it becomes difficult to withdraw from the transaction at a later stage, at least in reputational terms. The Board will therefore need to be mindful of this such that the Council of Governors is given the opportunity to consider significant transactions at an early stage and at each material decision point during the transaction, which may be before the point of formal approval of the transaction. There is otherwise a risk that the Council of Governors will be presented with a request for a formal approval of a transaction which it would be very hard for the Trust to withdraw from. Any absence of regular engagement and exchange of information about forthcoming transactions would also not be in the

spirit of constructive and collaborative working, which the Board and Council are committed to.

2.1.3 In paragraph 45.7 of the new draft Constitution, the Directors are committed to informing the Governors of transactions which involve a sum greater than 2% of the Trust's income or capital in the previous year, where those transactions are not featured in the annual estimates, capital plan or annual plan for the current year. Whilst it would not be for the Governors to approve (or reject) any such transactions, in informing the Governors of them the Directors would need to provide sufficient information such that the Governors are assured as to the Board's robust consideration of all the relevant issues. This helps to foster the spirit of openness and collaboration that this Trust aspires to. It can also be said that in respect of these transactions, the Council of Governors can use this as one aspect of review in discharging its general duty to hold the non-executive Directors individually and collectively to account for the performance of the Board. In the spirit of the collaborative and constructive working to which the Board and Council are committed, it would be advisable for the Board to advise the Governors of such transactions prior to formal Board approval. Such papers would, of course, need to make clear that no formal approval from the Council of Governors is required in order for the transaction to proceed.

2.2 Option 2: AN Other NHS Foundation Trust

2.2.1 We have recently advised another Foundation Trust (FT) on a definition of significant transactions, in the context of a stated commitment from that FT's Board and Council to work collaboratively together on the corporate governance of the FT. In that case, it was decided by the Board and Council to include in the Constitution a provision for the Council of Governors to decide whether any transaction was significant. This was in addition to other criteria and threshold which defined significant transactions, generally along traditional FT Constitution lines. We raise this approach because it is aligned to the Trust's stated commitment to ensure engagement between the Board and the Council, but we highlight below a number of issues which the Trust should consider before adopting any similar model.

2.2.2 Such an approach necessitates an ongoing dialogue between the Board and the Council, and an open and transparent relationship between them. Only through this approach will the Council be sufficiently aware of forthcoming transactions so as to judge (within the appropriate time) whether a transaction is significant and then to consider the detailed proposals themselves. It will also be necessary for the Council to apply careful judgement so that the number of transactions which it deems to be significant is not so large that the Board's ability to govern the organisation is undermined and so that there is not undue workload for either the Board or the Council. This is likely to require engagement between the Board and the Council to reach an agreed position on joint-working arrangements.

2.2.3 In the course of its deliberations, this Trust was also keen to consider issues and decisions that were emotionally charged locally (such as withdrawal of a service), as well as ones which contained significant reputational risk. In both of these circumstances such decisions would never meet any recognised threshold criteria by

value but might be enormously beneficial to discuss with a Council of Governors before being taken by the Board.

2.2.4 This arrangement was established in the context of a constructive working relationship between the Board and the Council. Whilst it is in the interests of both forums to continue this and both are committed to doing so, the Board and the Council should be aware of the risks which are inherent in an arrangement such as that described above. For example, the Board and the Council should satisfy themselves that the definition would remain workable in the context of a relationship which is not characterised by openness and joint-working; such a relationship could develop as personalities change. In such a case the Council might not be provided with sufficient information about forthcoming transactions so could not decide whether or not to define them as significant, or it could determine that relatively immaterial transactions are significant and thereby undermine the decision processes in the Trust.

2.3 Option 3: Monitor Risk Assessment Framework, April 2014

2.3.1 At the time of writing, Monitor has recently issued a revised Risk Assessment Framework to include in Appendix C a revised definition of "Small", "Material", and "Significant" Transactions. Monitor defines "Small Transactions" as those which do not fall within the criteria for reporting to Monitor. Any transactions which fall within the criteria for reporting to Monitor are defined as either "Material" or "Significant", subject to the application of further (risk-related) criteria defined in Appendix C of the Risk Assessment Framework.

2.3.2 We have not drafted a revised definition of the significant transactions based on the Risk Assessment Framework published in April 2014, but we advise the Trust to at least consider aligning its definition criteria with those in the revised Risk Assessment Framework. This is to avoid a scenario in which the Trust decides that a transaction is not significant but is required to report it to Monitor where it is later defined by the Regulator as significant and would therefore require at least a discussion with the Council of Governors. We would be pleased to advise further on a definition of significant transactions taking into account the Risk Assessment Framework if this would be helpful to the Trust.

Nominations and Appointments Committee Report for a Council of Governors Meeting, to be held on 28 April 2014 at 13:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU

Item 8 - Nominations and Appointments Committee Report
Purpose
The purpose of this report is to provide the Council of Governors with an update on the activities of the Governors' Nominations and Appointments Committee.
Abstract
The Nominations and Appointments Committee is a formal Committee of the Council of Governors established for the purpose of carrying out the duties of governors with respect to the appointment, re-appointment, removal, remuneration and other terms of service of the Chairman and Non-Executive Directors.
Recommendations
The Council of Governors is asked to note the report.
Report Sponsor or Other Author
Sponsor: Trust Secretary
The Nominations and Appointments Committee has held one meeting since the last Council of Governors meeting.
Nominations and Appointments Committee: 5 February 2014
Governors present: Sue Silvey, Mo Schiller, Pam Yabsley, Anne Skinner, John Steeds, Phil Mackie, Sylvia Townsend and Florene Jordan.
Others present or in attendance: John Savage – Chairman, Iain Fairbairn – Senior Independent Director, Charlie Helps – Trust Secretary, and Sarah Murch – PA/Administrator.
Topics discussed:
Chairman's Annual Appraisal: This item was chaired by the Senior Independent Director, Iain Fairbairn. Governors considered the Chairman's performance in relation to:
<ul style="list-style-type: none"> • his activity reports as Chairman and meeting attendance records • the formal requirements of compliance with the principles and provisions of the Foundation Trust Code of Governance • other expectations associated with the role (Trust Secretariat guidance)
The committee agreed that John Savage fulfilled the requirements of the role and that they were content for him to continue in the role of Chairman; the Committee provided constructive feedback in some areas.
The next meeting of the Nominations and Appointments Committee will take place on Friday 27 June 2014 at 13:30-14:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU.

Annual Plan Project Focus Group Meeting Account for a Council of Governors Meeting, to be held on 28 April 2014 at 13:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU

Item 9a - Annual Plan Project Focus Group Meeting Account
Purpose
To provide the Council of Governors with an update on the meetings of the Annual Plan Project Focus Group.
Abstract
The Annual Plan Project Focus Group provides an opportunity for engagement with governors to develop the Monitor Annual Plan and to contribute to the Trust's strategic objectives.
Recommendations
The Council of Governors is asked to note the meeting account.
Report Sponsor or Other Author
Sponsor: Trust Secretary
The Annual Plan Project Focus Group has held two meetings since the last Council of Governors meeting.
Annual Plan Project Focus Group: 13 February 2014
Governors attending: Anne Ford, Sue Silvey, John Steeds, Mo Schiller, Peter Holt, Joan Bayliss, Anne Skinner, Wendy Gregory, Clive Hamilton, Pam Yabsley, Brenda Rowe, Ian Davies, Ben Trumper and Angelo Micciche.
Others present or in attendance: David Relph – Head of Strategy and Business Planning (<i>Focus Group Chair</i>), and Debbie Marks – Membership Administrator.
Topics discussed:
<ul style="list-style-type: none"> • Operating Plans: David Relph, Head of Strategy and Business Planning, discussed with governors the key issues from the Operating Plans and the timeline for development. • Consolidated 'Strategic Choices': David Relph outlined the programme for strategic choices and the hierarchy of decisions. Governors gave their views on how effective the Trust is, the key components regarding a good reputation, what contributes to a safe, friendly and modern environment, and how to help all staff fulfil their potential.
Annual Plan Project Focus Group: 12 March 2014
Governors attending: Anne Ford, Sue Silvey, John Steeds, Mo Schiller, Peter Holt, Joan Bayliss, Anne Skinner, Wendy Gregory, Clive Hamilton, Pam Yabsley, Pauline Beddoes, Angelo Micciche and Tony Tanner.
Others present or in attendance: David Relph – Head of Strategy and Business Planning (<i>Focus Group Chair</i>), Deborah Lee – Director of Strategic Development, and Debbie Marks – Membership Administrator.
Topics discussed:

Page 2 of 2 of an Annual Plan Project Focus Group Meeting Account for a Council of Governors Meeting to be held on 28 April 2014 at 13:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU

- **Operating Plan** – David Relph presented a summary paper on the Trust’s Operating Plan 2014-2016, and governors gave feedback on the content. Governors were informed that the draft Operational Plan would be presented at Trust Board on 28 March for their endorsement, and would go to Monitor on 4 April.
- **Progress in the Trust re 7-day working** – Deborah Lee, Director of Strategic Development, updated the group on the work undertaken by divisions to assess themselves in terms of compliance with the 10 standards defined nationally for 7-day working.

The next meeting of the Annual Plan Project Focus Group will be on **Thursday 8 May 2014 from 14:00-16:00** in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU.

The group also decided to hold an extra Annual Plan Focus Group meeting in June, to enable governors to look at the Monitor Plan in the later stages. The Monitor Plan is due to be submitted on 30 June; therefore a meeting has also been arranged for Thursday 19 June, 10:00 – 12:00 in the Board Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU.

Quality Project Focus Group Meeting Account for a Council of Governors Meeting, to be held on 28 April 2014 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU

Item 9b - Quality Project Focus Group Meeting Account
Purpose
To provide the Council of Governors with an update on the meetings of the Quality Project Focus Group.
Abstract
The objectives of the Quality Project Focus Group are to provide: <ul style="list-style-type: none"> a) engagement with governors to develop the Board’s Annual Quality Report; b) regular support to enable governors to understand and interpret the Board Quality and Performance Report; c) regular support to enable governors to understand and interpret reported progress on the Board’s Quality Objectives; and, d) opportunities for input from governors on quality matters.
Recommendations
The Council of Governors is asked to note the meeting account.
Report Sponsor or Other Author
Sponsor: Trust Secretary
The Quality Project Focus Group has held one meeting since the last Council of Governors meeting. <p>Quality Project Focus Group Meeting: 5 March 2014</p> <p>Governors attending: Clive Hamilton, Sue Silvey, John Steeds, Mo Schiller, Peter Holt, Anne Skinner, Wendy Gregory, Tony Tanner and Marc Griffiths.</p> <p>Others present or in attendance: Deborah Lee – Director of Strategic Development (<i>Focus Group Chair</i>), Sean O’Kelly – Medical Director, Carolyn Mills – Chief Nurse, Chris Swonnell – Head of Quality (Patient Experience and Clinical Effectiveness), Anne Reader – Head of Quality (Patient Safety), Xanthe Whittaker – Head of Performance Assurance, Emma Redfern – Associate Medical Director (observer), Debbie Marks – Membership Administrator.</p> <p>Topics discussed:</p> <ul style="list-style-type: none"> • Level of reporting of clinical incidents around omitted medication – Governors received an update from Anne Reader, Head of Quality (Patient Safety). • Trust Board Quality and Performance Report – Clive Hamilton, Lead Governor for the Quality Project Focus Group, presented his own ‘Summary of Performance to date -05 03 2012- Quality and Access Standards from Board Report 27 02 14’. The group discussed this

**Page 2 of 2 of a Quality Project Focus Group Meeting Account for a Council of
Governors Meeting, to be held on 28 April 2014 in the Conference Room, Trust
Headquarters, Marlborough Street, Bristol, BS1 3NU**

paper at length.

- **Histopathology update** – Governors received an update by Sean O’Kelly, Medical Director, on histopathology staffing and the action plan for achieving integration across the city.
- **Cancer pathways** – Xanthe Whittaker, Head of Performance Assurance/Deputy Director of Strategic Development gave a presentation on cancer pathways and national cancer waiting times standards.
- **Quality Report** – Chris Swonnell, Head of Quality (Patient Experience and Clinical Effectiveness), asked for suggestions regarding the content of this year’s Quality Report and explained the structure of and timeline for the report. The report includes a commentary by governors, which this year will be completed by Tony Tanner.

The next meeting of the Quality Project Focus Group will be held on Tuesday 6 May 2014, 15:00 – 17:00 in the Board Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU.

Foundation Trust Constitution Project Focus Group Meeting Account for a Council of Governors Meeting, to be held on 28 April 2014 at 13:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU

Item 9c – Constitution Project Focus Group Meeting Account
Purpose
To provide the Council of Governors with an update on the meetings of the Constitution Project Focus Group.
Abstract
The objectives of the Constitution Project Focus Group are to provide: (i) engagement with governors in drafting Constitutional changes; (ii) assessing the membership profile; and, (iii) advice from governors on communications and engagement activities for Foundation Trust members.
Recommendations
The Council of Governors is asked to note the update.
Report Sponsor or Other Author
Sponsor: Trust Secretary
The Constitution Project Focus Group has held one meeting since the last Council of Governors meeting. Constitution Project Focus Group: 20 March 2014 Governors attending: Sue Silvey, Clive Hamilton, Mo Schiller, Brenda Rowe, Anne Ford, Anne Skinner, Wendy Gregory, Florene Jordan, Sylvia Townsend, Angelo Micciche and John Steeds. Others present or in attendance: Charlie Helps – Trust Secretary and Focus Group Chair, Maria Fox – Membership Manager, and Debbie Marks – Membership Administrator. Topics discussed: <ul style="list-style-type: none"> • Changes to the Constitution – Governors were updated on the progress of the strategic review of the Foundation Trust Constitution, and discussed some further suggestions for changes. • Role description for Lead Governor – Governors considered the changes to the role description for Lead Governor and discussed whether the role should have the provision to be a job share. The next meeting of the Constitution Project Focus Group will be held on Wednesday 4 June 2014 from 11:30 to 13:30 in the Conference Room, Trust Headquarters, Marlborough Street, Bristol, BS1 3NU.