

**AUTHORISATION**  
**of**  
**SUSSEX PARTNERSHIP NHS FOUNDATION TRUST**  
**(pursuant to section 35 of the National Health Service Act 2006)**



Signature: ..... *William May*

**1 August 2008**

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## **PART 1 Authorisation**

1. Monitor (“Monitor”), the Independent Regulator of NHS Foundation Trusts, in exercise of the powers conferred by section 35 of the National Health Service 2006 (“**the Act**”) and all other powers exercisable by Monitor, hereby authorises Sussex Partnership NHS Trust to become an NHS Foundation Trust (“**the Trust**”), subject to the Conditions set out in Part 3 hereof.
2. This Authorisation shall come into force on 1 August 2008.
3. Subject to the provisions of sections 54 and 55 of the Act, this Authorisation shall be of unlimited duration.
4. This Authorisation is not assignable.
5. Monitor may vary the Conditions of this Authorisation.

## **PART 2 Interpretation and construction**

1. Words and expressions used in the Authorisation shall be construed as if they were in an Act of Parliament and the Interpretation Act 1978 applied to them.
2. Any reference to an enactment shall include any re-enactment thereof or amendment thereto.
3. Words and expressions defined in the Act shall have the same meaning when used in this Authorisation.
4. Unless otherwise specified, any reference to a numbered Condition (with or without a suffix letter) or Schedule is a reference to the Condition or Schedule bearing that number in this Authorisation.
5. In construing the provisions of this Authorisation, the heading or title of any Part, Condition or Schedule shall be disregarded.
6. Where any obligation of the Trust is required to be performed by a specified date or within a specified period, and where the Trust has failed so to perform, such obligation shall continue to be binding and enforceable after the specified date or after the expiry of the specified period.

7. In this Authorisation:

“ancillary services” means services which support the provision of the mandatory goods and services listed in Schedule 2.

“property” is land and buildings owned or leased by the Trust.

“the Board of Directors” means the Board of Directors of the Trust.

“the provision of goods and services for purposes related to the provision of health care” includes the provision of social care services.

“high security psychiatric services” has the same meaning as in section 4 of the Act.

## **PART 3 Conditions**

### 1. Principal Purpose

The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England. This does not preclude the provision of cross-border services to other parts of the United Kingdom.

### 2. General duty

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

### 3. Constitution

- (1) The Trust shall secure that its constitution is in accordance with any regulations made under section 59 of the Act (conduct of elections).
- (2) The Trust may make amendments to its constitution with the approval of Monitor.
- (3) The constitution, incorporating any amendments which may be made thereto, is annexed at Schedule 1.

### 4. Compliance and enforcement

- (1) The Trust shall comply with:
  - any requirements imposed on it under the Act or any other enactment;
  - the Conditions of this Authorisation;
  - the terms of its constitution;
  - if applicable, directions issued by the Secretary of State with respect to safety and security in connection with the provision of high security psychiatric services; and
  - the terms of its contracts with bodies which commission the Trust to provide goods and services (including education and training, accommodation and other facilities) for the purposes of the health service in England.
- (2) The Trust shall comply with any guidance issued by Monitor, unless Monitor has agreed with the Trust that, in the particular circumstances, the Trust is not required to comply.
- (3) A failure to comply may result in Monitor taking enforcement action under sections 52, 53 or 54 of the Act.

## 5. Governance

- (1) The Trust shall ensure the existence of appropriate arrangements to provide representative and comprehensive governance in accordance with the Act and to maintain the organisational capacity necessary to deliver the mandatory goods and services referred to in Condition 7(1) and listed in Schedule 2 and the mandatory education and training referred to in Condition 7(2) and listed in Schedule 3.
- (2) The Trust shall comply with the principles of best practice applicable to corporate governance in the NHS/health sector, with any relevant code of practice and with any guidance which may be issued by Monitor.

## 6. Health care and other standards

- (1) The Trust shall put and keep in place and comply with arrangements for the purpose of monitoring and improving the quality of health care provided by and for the Trust.
- (2) The Trust shall comply with statements of standards in relation to the provision of health care published by the Secretary of State under section 46 of the Health and Social Care (Community Health and Standards) Act 2003, as currently set out in the Department of Health publication Health and Social Care Standards and Planning Framework (July 2004) as may be amended from time to time.
- (3) If applicable, the Trust shall comply with any statements of standards with respect to social care services which the Secretary of State may issue from time to time.
- (3) If applicable, the Trust shall comply with any statements of standards with respect to security and risk management which the Secretary of State may issue from time to time.

## 7. Mandatory Services

- (1) The Trust is required to provide for the purposes of the health service in England the goods and services listed in Schedule 2 in the volumes or amounts specified therein ("**mandatory goods and services**") which goods and services in the volumes or amounts specified are to be provided pursuant to a legally binding contract or contracts between the Trust and one or more of the commissioning bodies, or on the understanding that the Trust and the relevant commissioning body or bodies will conclude a legally binding contract or contracts for the provision of said goods and services in the volumes or amounts specified within 12 months of the date on which this authorisation comes into force. This requirement includes an obligation to provide any ancillary services, accommodation and other facilities related to said goods and services and which are generally accepted to be required for the effective, efficient and economic provision of said goods and services in the volumes or amounts specified.
- (2) The Trust is required to provide education and training to third parties for the purposes of the health service in England listed in Schedule 3 in the volumes or amounts specified therein ("**mandatory education and training**"), which are to be provided pursuant to a legally binding contract or contracts between

the Trust and one or more of the commissioning bodies, or on the understanding that the Trust and the relevant commissioning body or bodies will conclude a legally binding contract or contracts for the provision of said education and training in the volumes or amounts specified within 12 months of the date on which this authorisation comes into force.

- (3) Monitor reserves the right to vary the goods and services and the volumes or amounts thereof which the Trust is required to provide in terms of Condition 7(1) and the education and training to third parties and the volumes or amounts thereof which the Trust is required to provide in terms of Condition 7(2), in particular in order to ensure the continuity of local service provision and the fulfilment of local health needs as they may vary from time to time.
- (4) The Board of Directors of the Trust shall regularly review and shall at all times maintain and ensure the capacity and capability of the Trust to provide the mandatory goods and services referred to in Condition 7(1) and listed in Schedule 2.

#### 8. Authorised Services

- (1) The Trust is authorised to provide goods and services (including education and training, accommodation and other facilities) for purposes related to the provision of health care, subject to written confirmation to Monitor by the Board of Directors that the Board of Directors is satisfied that the Trust has the capacity and the capability to provide said goods and services and that the provision of said goods and services will not inhibit the provision by the Trust of the mandatory goods and services referred to in Condition 7(1) and listed in Schedule 2.
- (2) Monitor reserves the right to refuse to authorise specific goods and services in circumstances where Monitor is not satisfied that the Board of Directors has a proper basis for the written confirmation referred to in Condition 8(1).
- (3) The Trust shall establish and maintain an up to date register of the goods and services referred to in Condition 8(1). With respect to education and training, only education and training provided to third parties shall be included in the register. Accommodation and other facilities do not require to be included in the register of goods and services.
- (4) The Trust shall make the register of goods and services available for public inspection on payment of such reasonable fee, if any, as the Trust may determine.
- (5) The Trust is authorised to carry out research in connection with the provision of health care, subject to written confirmation to Monitor by the Board of Directors that the Board of Directors is satisfied that the Trust has the capacity and the capability to provide said research, that all relevant authorisations with respect to the carrying out of said research have been secured, that the said research will be carried out in accordance with the generally accepted ethical standards and that the said research will not inhibit the provision by the Trust of the mandatory goods and services referred to in Condition 7(1) and listed in Schedule 2.

- (6) Monitor reserves the right to refuse to authorise research in circumstances where Monitor is not satisfied that the Board of Directors has a proper basis for the written confirmation referred to in Condition 8(5).
- (7) The Trust is authorised to make facilities and staff available for the purposes of education, training or research carried on by others.
- (8) Any activities undertaken by the Trust, other than the provision of goods and services for purposes related to the provision of health care, shall be subject to any restrictions which may be imposed by Monitor in terms of section 43(3) of the Act.

9. Protection of property

- (1) Property needed for the purposes of providing any of the mandatory goods and services referred to in Condition 7(1) and listed in Schedule 2 (including the ancillary services, accommodation and other facilities related thereto) and the mandatory training and education referred to in Condition 7(2) and listed in Schedule 3 is protected.
- (2) The Trust may not dispose any protected property without the approval of Monitor.
- (3) The Trust shall establish and maintain an asset register in respect of protected property, in accordance with guidance to be issued by Monitor.
- (4) The Trust shall make the asset register available for public inspection on payment of such reasonable fee, if any, as the Trust may determine.

10. Private health care

The proportion of total income of the Trust in any financial year derived from private charges shall not be greater than the percentage set out in Schedule 4.

11. Limit on borrowing

- (1) The total amount of the Trust's borrowing is subject to the limit set out in Schedule 5.
- (2) The limit is subject to annual review by Monitor.

12. Financial viability

The Trust shall at all times remain a going concern as defined by relevant accounting standards in force from time to time.

13. Dividend payments on Public Dividend Capital

The Trust shall be required to pay annually to the Department of Health a dividend on its Public Dividend Capital at a rate to be determined from time to time by the Secretary of State.

14. Information

The Trust shall disclose to Monitor and directly to any third parties as may be specified by the Secretary of State the information, if any, specified in Schedule 6 as may be varied from time to time and such other information as Monitor may from time to time require.

15. Entry and inspection of premises

The Trust shall allow Monitor, any member, officer or member of staff of Monitor, and any agent acting on behalf of Monitor, to enter and inspect premises owned or controlled by the Trust.

16. Fees

The Trust shall pay to Monitor such reasonable annual fee, if any, as may be determined by Monitor.

17. Representative membership

The Trust shall continue to take such reasonable steps as may be required by Monitor, by such date or within such period as may be specified by Monitor, to secure that (taken as a whole) the actual membership of any public constituency and (if there is one) the patients' constituency is representative of those eligible for such membership.

18. Co-operation with other bodies

- (1) The Trust shall co-operate with Primary Care Trusts, Strategic Health Authorities, Special Health Authorities, the Commission for Health Care Audit and Inspection, NHS foundation trusts, other NHS trusts and other health authorities and organisations in accordance with the Act and any future guidance to be published by Monitor.
- (2) The Trust shall co-operate with the Commission for Social Care Inspection, the Mental Health Act Commissioners, the National Oversight Group for High Security Hospitals and such other bodies (as may be specified in any future guidance to be published by Monitor) which have a remit covering activities related to the provision of mental healthcare services.
- (3) The Trust shall co-operate with local authorities in the exercise of its own functions and in the exercise by the local authorities of their respective functions.

19. Emergency planning

The Trust shall assist the relevant authorities with, and participate in, local and national emergency planning and provision.

20. Information technology

The Trust shall participate in the national programme for information technology, in accordance with any guidance issued by Monitor.

21. Audit committee

- (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.
- (2) The Board of Directors shall satisfy itself that at least one member of the audit committee has recent and relevant financial experience.

22. Audit

- (1) The Audit Code for NHS Foundation Trusts (“the Audit Code”) contains the directions of Monitor under paragraph 24(5) of Schedule 7 to the Act with respect to the standards, procedures and techniques to be adopted by the auditor.
- (2) The Trust shall comply with the Audit Code.
- (3) The auditor shall comply with the Audit Code.

23. Public interest reporting

The Trust shall forward a report to Monitor within thirty days (or such shorter period as Monitor may specify) of the auditor issuing a public interest report in terms of paragraph 3 of Schedule 10 to the Act. The report shall include details of the Trust’s response to the issues raised within the public interest report.

24. Notification

The Trust shall deal with Monitor in an open and co-operative manner and shall promptly notify Monitor of anything relating to the Trust of which Monitor would reasonably expect prompt notice, including, without prejudice to the foregoing generality, any anticipated failure or anticipated prospect of failure on the part of the Trust to meet its obligations under this authorisation or any financial or performance thresholds which Monitor may specify from time to time.

25. Information given to Parliament and to Members of Parliament

In addition to any statutory requirements, the Chairman, Chief Executive or any other person giving information to Parliament or to a Member of Parliament on behalf of a Trust shall ensure that they comply with the standards expected of Ministers of the Crown with regard to openness of dealings, the giving of accurate and truthful information and the correction of any inadvertent error at the earliest opportunity. Any question submitted to the Trust by a Member of Parliament shall be responded to by the Trust within the same timescale as that expected of Ministers with respect to Parliamentary questions.

**AUTHORISATION OF SUSSEX PARTNERSHIP NHS FOUNDATION TRUST**

**Schedule 1**

The Constitution (and Annexures)

**SUSSEX PARTNERSHIP NHS FOUNDATION TRUST**  
**(A PUBLIC BENEFIT CORPORATION)**

**CONSTITUTION**

# Sussex Partnership NHS Foundation Trust Constitution

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## Sussex Partnership NHS Foundation Trust Constitution

### 1. Name

- 1.1 The name of the foundation trust is Sussex Partnership 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 Without prejudice to the Trust's principal purpose, the further purpose of the Trust shall be to provide goods and services, including education, training and research and other facilities, for purposes related to the provision of health care in accordance with its statutory powers and terms of Monitor's authorisation.
- 2.3 The Trust may also carry out activities other than those mentioned above, subject to any restrictions contained in Monitor's authorisation. These activities shall be for the purpose of making additional income available in order to carry out the Trust's principal purpose better.

### 3. Powers

- 3.1 The powers of the Trust are set out in the 2006 Act, subject to any restrictions in the Terms of Authorisation.
- 3.2 The powers of the Trust shall be exercised by the board of directors on behalf of the Trust.
- 3.3 Any of these powers may be delegated to a Committee of directors or to an executive director.
- 3.4 Where the Trust is exercising its powers under section 23 of the Mental Health Act 1983 (as amended by section 45 of the Mental Health Act 2007), those functions may be exercised by any three or more persons authorised by the board of directors in that behalf each of whom is neither an executive director of the Trust, nor an employee of the Trust.

### 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 a service user constituency ; and
  - 4.1.3 a staff constituency.

## **5. Application for membership**

5.1 An individual who is eligible to become a member of the Trust may do so on application to the Trust.

## **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 of the Trust.

6.2 Those individuals who live in an area specified as an area for any public constituency are referred to collectively as the public constituency.

6.3 The minimum number of members in each area for the public constituency is specified in Annex 1.

## **7. Service user constituency**

7.1 An individual who has, within the period specified below, attended the Trust as either a service user or as the carer of a service user may become or continue as a member of the Trust.

7.2 The period referred to above shall be the period of five years immediately preceding the date of an application by the service user or carer to become a member of the Trust.

7.3 Those individuals who are eligible for membership of the Trust by reason of the previous provisions are referred to as the service user constituency.

7.4 The service user constituency shall be divided into four classes to represent three geographical areas (West Sussex, Brighton and Hove, East Sussex) and a carers class.

7.5 An individual providing care in pursuance of 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 service user constituency.

7.6 The minimum number of members in each class of the service user constituency is specified in Annex 2.

## **8. Staff constituency**

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

8.1.1 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

8.1.2 he has been continuously employed by the Trust under a contract of employment for at least 12 months.

- 8.2 Individuals who exercise functions wholly for the purposes of the Trust, other than under a contract of employment with the trust, must exercise those functions for a continuous period of at least 12 months to be eligible to join the staff constituency.
- 8.3 An individual who is eligible to become a member of the staff constituency, and invited by the Trust to become a member of the staff constituency shall become a member of the Trust as a member of the staff constituency without an application being made, unless he informs the Trust that he does not wish to do so.
- 8.4 Those individuals who are eligible for membership of the trust by reason of the previous provisions are referred to collectively as the staff constituency.
- 8.5 The minimum number of members in the staff constituency is specified in Annex 3.

## **9. Restriction on membership and termination of membership**

- 9.1 An individual who is a member of a constituency, or of a class within a constituency, may not while membership of that constituency or class continues, be a member of any other constituency or class.
- 9.2 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.
- 9.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Trust are set out in Annex 7.

## **10. Council of governors – composition**

- 10.1 The Trust is to have a council of governors, which shall comprise both elected and appointed governors.
- 10.2 The composition of the council of governors is specified in Annex 4.
- 10.3 The members of the council of governors, other than the appointed members, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency. The number of governors to be elected by each constituency, or, where appropriate, by each class of each constituency, is specified in Annex 4.

## **11. Council of governors – election of governors**

- 11.1 Elections for elected members of the council of governors shall be conducted in accordance with the Model Rules for Elections, as may be varied from time to time.
- 11.2 The Trust will use single transferable voting as the chosen voting method for contested elections.
- 11.3 The Model Rules for Elections, as may be varied from time to time, form part of this constitution and are attached at Annex 5.

11.4 A variation of the Model Rules by the Department of Health shall not constitute a variation of the terms of this constitution. For the avoidance of doubt, the Trust cannot amend the Model Rules.

11.4 An election, if contested, shall be by secret ballot.

## **12. Council of governors - tenure**

### 12.1 Elected governors

12.1.1 An elected governor may hold office for a period of up to three years.

12.1.2 An elected governor shall be eligible for re-election at the end of his term, but may not hold office for longer than nine years.

12.1.3 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.

### 12.2 Appointed Governors

12.2.1 An appointed governor may hold office for a period of up to three years.

12.2.2 An appointed governor shall be eligible for re-appointment at the end of his term, but may not hold office for longer than nine years.

12.2.3 An appointed governor shall cease to hold office if the sponsoring organisation withdraws its sponsorship of him by notice in writing to the Secretary.

12.2.4 Appointed governors will be appointed by the partnership organisations in accordance with a process agreed with the secretary.

## **13. Council of governors – disqualification and removal**

13.1 The following may not become or continue as a member of the council of governors:

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

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

13.1.3 a person who within the preceding five years has been convicted in the British Isles of an 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.

13.2 Governors must be at least 16 years of age at the date they are nominated for election or appointment.

13.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the council of governors are set out in Annex 6.

13.4 A governor may resign from office at any time during his or her term of office by giving notice in writing to the Secretary, such notice specifying the date of resignation.

#### **14. Council of governors – meetings of governors**

14.1 The chair of the Trust (ie the chair of the board of directors, appointed in accordance with the provisions of paragraph 21.1 or paragraph 22.1 below) or, in his absence, the Vice Chair (appointed in accordance with the provisions of paragraph 23 below), shall preside at meetings of the council of governors.

14.2 Meetings of the council of governors shall be open to members of the public. Members of the public may be excluded from a meeting by resolution of the council of governors on the grounds that publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of the business or the proceedings.

#### **15. Council of governors – standing orders**

15.1 The standing orders for the council of governors are attached at Annex 8.

#### **16. Council of governors - conflicts of interest of governors**

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

#### **17. Council of governors – travel expenses**

17.1 The Trust may pay travelling and other expenses to members of the council of governors at such rates determined by the Trust from time to time.

#### **18. Council of governors – additions provisions**

18.1 Additional provisions with respect to the council of governors are set out in Annex 6.

#### **19. Board of directors – composition**

19.1 The Trust is to have a board of directors, which shall comprise both executive and non-executive directors.

19.2 The board of directors is to comprise:

- 19.2.1 a non-executive chair
  - 19.2.2 6 other non-executive directors
  - 19.2.3 One of the non-executive directors will represent the Brighton and Sussex Medical School, which is hosted jointly by the University of Brighton and the University of Sussex (the Medical School); and
  - 19.2.4 7 executive directors.
- 19.3 One of the executive directors shall be the chief executive.
- 19.4 The chief executive shall be the Accounting Officer.
- 19.5 One of the executive directors shall be the Finance Director.
- 19.6 One of the executive directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).
- 19.7 One of the executive directors is to be a registered nurse or
- 19.8 a registered midwife.

**20. Board of directors – qualification for appointment as a non-executive director**

- 20.1 A person may be appointed as a non-executive director only if:
- 20.1.1 he is a member of the general public constituency, or
  - 20.1.2 he is a member of the service user constituency, or
  - 20.1.3 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
  - 20.1.4 he is not disqualified by virtue of paragraph 26 below.

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

- 21.1 The council of governors at a general meeting of the council of governors shall appoint or remove the chair of the Trust and the other non-executive directors.
- 21.2 Removal of the chair or another non-executive director shall require the approval of three-quarters of the members of the council of governors.
- 21.3 The initial chair and the initial non-executive directors are to be appointed in accordance with paragraph 22 below.

**22. Board of directors – appointment of initial chair and initial other non-executive directors**

- 22.1 The chair of the applicant NHS Trust shall be appointed as the initial chair of the Trust if he wishes to be appointed.
- 22.2 The power of the council of governors to appoint the other non-executive directors of the Trust is to be exercised, so far as possible, by appointing as the initial non-executive directors of the Trust any of the non-executive directors of the applicant NHS Trust (other than the chair) who wish to be appointed.
- 22.3 The criteria for qualification for appointment as a non-executive director set out in paragraph 20 above (other than disqualification by virtue of paragraph 26 below) do not apply to the appointment of the initial chair and the initial other non-executive directors in accordance with the procedures set out in this paragraph.
- 22.4 An individual appointed as the initial chair or as an initial non-executive director in accordance with the provisions of this paragraph shall be appointed for the unexpired period of his term of office as chair or (as the case may be) non-executive director of the applicant NHS Trust; but if, on appointment, that period is less than 12 months, he shall be appointed for 12 months.

**23. Board of directors – appointment of Vice Chair**

- 23.1 The board of directors shall appoint one of the non-executive directors as a Vice Chair.

**24. Board of directors - appointment and removal of the chief executive and other executive directors**

- 24.1 The chair and non-executive directors shall appoint or remove the chief executive.
- 24.2 The appointment of the chief executive shall require the approval of a majority of the council of governors present and voting at a meeting of the council of governors.
- 24.3 The initial chief executive is to be appointed in accordance with paragraph 25 below.
- 24.4 A Committee consisting of the chair, the chief executive and the other non-executive directors shall appoint or remove the other executive directors.

**25. Board of directors – appointment and removal of initial chief executive**

- 25.1 The chief officer of the applicant NHS Trust shall be appointed as the initial chief executive of the Trust if he wishes to be appointed.
- 25.2 The appointment of the chief officer of the applicant NHS trust as the initial chief executive of the Trust shall not require the approval of the council of governors.

## **26. Board of directors – disqualification**

- 26.1 The following may not become or continue as a member of the board of directors:
- 26.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged.
  - 26.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it.
  - 26.1.3 a person who within the preceding five years has been convicted in the British Isles of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.
- 26.2 They are a member of the council of governors.
- 26.3 They are the spouse, partner, parent or child of a member of the board of directors.
- 26.4 They are subject to a disqualification order made under the Company Directors' Disqualification Act 1986.
- 26.5 He has had his name removed from a list maintained under regulations pursuant to sections 91, 106, 123 or 146 of the 2006 Act, or the equivalent lists maintained by Local Health Boards in Wales under the National Health Service (Wales) Act 2006, and he has not subsequently had his name included in such a list.
- 26.6 In the case of a non-executive director they are no longer a member of one of the public or service user constituencies.
- 26.7 In the case of the non-executive director nominated by the Medical School, that they no longer exercise these functions on behalf of the Medical School.
- 26.8 They have within the preceding two years been dismissed, otherwise than by reason of redundancy from any paid employment with a health service body.
- 26.9 They have had a tenure of office as a chair or as a member or as a director of a health service body terminated on the grounds that their appointment is not in the interests of the health service, for non-attendance at meetings or for non-disclosure of a pecuniary interest.
- 26.10 In the case of a non-executive director if they have failed without reasonable cause to fulfil any training requirement established by the council of governors.
- 26.11 They have refused to sign and deliver to the Secretary a statement in the prescribed format confirming acceptance of a Code of Conduct for Directors.

## **27. Board of directors – standing orders**

- 27.1 The standing orders for the board of directors are attached as Annex 9.

## **28. Board of directors - conflicts of interest of directors**

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

## **29. Board of directors – remuneration and terms of office**

29.1 The council of governors at a general meeting of the council of governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the chair and the other non-executive directors.

29.2 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.

## **30. Registers**

30.1 The Trust shall have:

30.1.1 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;

30.1.2 a register of members of the council of governors;

30.1.3 a register of interests of the members of the council of governors;

30.1.4 a register of directors; and

30.1.5 a register of interests of the directors.

## **31. Registers – inspection and copies**

31.1 The Trust shall make the registers specified in paragraph 30 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

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

31.2.1 any member of the service user constituency; or

31.2.2 any other member of the Trust, if he so requests.

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

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

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

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

## **32. Documents available for public inspection**

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

32.1.1 a copy of the current Constitution;

32.1.2 a copy of the current Authorisation;

32.1.3 a copy of the latest annual accounts and of any report of the Auditor on them;

32.1.4 a copy of the latest Annual Report;

32.1.5 a copy of the latest information as to its forward planning; and

32.1.6 a copy of any notice given under section 52 of the 2006 Act.

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

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

## **33. Auditor**

33.1 The Trust shall have an Auditor.

33.2 The council of governors shall appoint or remove the Auditor at a general meeting of the council of governors.

## **34. Audit Committee**

34.1 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.

## **35. Accounts**

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

- 35.2 The accounts are to be audited by the Trust's Auditor.
- 35.3 The Trust shall prepare in respect of each Financial Year annual accounts in such form as Monitor may with the approval of the HM Treasury direct.
- 35.4 The functions of the Trust with respect to the preparation of the annual accounts shall be delegated to the Accounting Officer.

### **36. Annual Report and forward plans**

- 36.1 The Trust shall prepare an Annual Report and send it to Monitor.
- 36.2 The Trust shall give information as to its forward planning in respect of each Financial Year to Monitor.
- 36.3 The document containing the information with respect to forward planning (referred to above) shall be prepared by the directors.
- 36.4 In preparing the document, the directors shall have regard to the views of the council of governors.

### **37. Meeting of council of governors to consider annual accounts and reports**

- 37.1 The following documents are to be presented to the council of governors at a general meeting of the council of governors:
- 37.1.1 the annual accounts
  - 37.1.2 any report of the Auditor on them
  - 37.1.3 the Annual Report.

### **38. Instruments**

- 38.1 The Trust shall have a seal.
- 38.2 The seal shall not be affixed except under the authority of the board of directors as set out in the standing orders for the board of directors.

### **39. Interpretation and definitions**

- 39.1 Unless a contrary intention is evident or the context requires otherwise, words or expressions contained in this constitution shall bear the same meaning as in the National Health Service Act 2006.
- 39.2 References in this Constitution to legislation include all amendments, replacements or re-enactments made.

- 39.3 References to legislation include all regulations, orders, statutory guidance or directives.
- 39.4 Headings are for ease of reference only and are not to affect interpretation.
- 39.5 Words importing the masculine gender only shall include the feminine gender; words importing the singular shall import the plural and vice-versa.
- 39.6 In this Constitution:
- "2006 Act"**  
means the National Health Service Act 2006;
- "Accounting Officer"**  
means the NHS Officer responsible and accountable for the funds entrusted to the Trust. The Officer shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the chief executive;
- "Annual Report"**  
means a report prepared by the Trust pursuant to paragraph 26 of Schedule 7 to the 2006 Act;
- "Audit Committee"**  
means a Committee of the board of directors as established pursuant to paragraph 34 of this Constitution;
- "Auditor"**  
means the Auditor of the Trust appointed by the council of governors pursuant to paragraph 33 of this Constitution;
- "Authorisation"**  
means the authorisation issued to the Trust by the Independent Regulator under section 35 of the 2006 Act;
- "Budget"**  
means a resource, expressed in financial terms, proposed by the board for the purposes of carrying out, for a specific period, any or all of the functions of the Trust;
- "Budget Holder"**  
means the director or employee with delegated authority to manage finance (Income and Expenditure) for a specific area of the organisation;
- "Clear Day"**  
means a day of the week not including Saturday, Sunday or a public holiday;
- "Committee"**  
means a Committee or sub-Committee created and appointed by the Trust;
- "Constitution"**  
means this Constitution together with the annexes and appendices attached hereto;
- "Directors Code of Conduct"**

means the Code of Conduct for Directors of the Trust, as adopted by the applicant NHS trust and as amended from time to time by the board of directors, to which all directors must subscribe;

**" Finance Director "**

means the Chief Financial Officer of the Trust;

**"Financial Year"**

means:

(a) a period beginning with the date on which the Trust is authorised as an NHS Foundation Trust and ending with the next 31 March; and

(b) each successive period of twelve months beginning with 1 April;

**"Health Oversight and Scrutiny Committee"**

means a Committee whose functions are concerned with the arrangements for monitoring and improving the quality of health and social care services for which Sussex Partnership NHS Foundation Trust has responsibility;

**"Hospital"**

means those premises of the Sussex Partnership NHS Trust and all associated hospitals and facilities at which the Trust provides and/or manages the provision of goods and/or services;

**"Independent Regulator"**

means the regulator of NHS foundation trusts established under Part 2, Chapter 5 (Section 31) of the 2006 Act and known as Monitor;

**"Officer"**

means employee of the Trust or any other person holding a paid appointment or office with the Trust;

**"Secretary"**

means a person appointed to act independently of the board to provide advice on corporate governance issues to the board and the chair and monitor the Trust's compliance with the law, standing orders and guidance issued by the Independent Regulator;

**"Sex Offenders Order"**

means a Sexual Offences Preventative Order made under section 104 of the Sexual Offences Act 2003, or a Risk of Sexual Harm Order made under section 123 of the Sexual Offences Act 2003;

**"Sex Offenders Register"**

means the Register of Sex Offenders maintained under Part I of the Sex Offenders Act 1997 (as amended by the Sexual Offences Act 2003);

**"Trust"**

means Sussex Partnership NHS Foundation Trust;

**"Vice Chair"**

means the non-executive director appointed by the board to take on the chair's duties if the chair is absent for any reason;

## ANNEX 1 – THE PUBLIC CONSTITUENCY

<b>Area</b>	<b>Minimum Numbers</b>
<b>Brighton and Hove</b> The electoral area covered by Brighton and Hove City Council	<b>20</b>
<b>East Sussex</b> The electoral area covered by East Sussex County Council	<b>20</b>
<b>West Sussex</b> The electoral area covered by West Sussex County Council	<b>20</b>
<b>Total</b>	<b>60</b>

## ANNEX 2 – THE SERVICE USER CONSTITUENCY

<b>Area</b>	<b>Minimum Numbers</b>
<b>Brighton and Hove</b> The electoral area covered by Brighton and Hove City Council	<b>40</b>
<b>East Sussex</b> The electoral area covered by East Sussex County Council	<b>40</b>
<b>West Sussex</b> The electoral area covered by West Sussex County Council	<b>40</b>
<b>Carers</b>	<b>30</b>
<b>Total</b>	<b>150</b>

## **ANNEX 3 – THE STAFF CONSTITUENCY**

The minimum number of members in the staff constituency is **60**

## ANNEX 4 – COMPOSITION OF COUNCIL OF GOVERNORS

The council of governors shall consist of:

		No. of Governors
1.	6 public constituency governors elected by the public constituency as follows:	
1.1	Brighton and Hove	2
1.2	East Sussex	2
1.3	West Sussex	2
2.	15 service user constituency governors elected by the service user constituency as follows:	
2.1	Brighton and Hove	3
2.2	East Sussex	4
2.3	West Sussex	5
2.4	Carers	3
3.	6 staff constituency governors elected by the staff constituency	6
4.	4 PCT governors appointed by the following PCTs (to be appointed pursuant to a process agreed between the PCTs and the trust).	
4.1	East Sussex Downs and Weald PCT	1
4.2	Hastings and Rother PCT	1
4.3	West Sussex PCT	1
4.4	Brighton and Hove City PCT	1
5.	3 local authority governors appointed by the following local authorities (to be appointed pursuant to a process agreed between the local authorities and the trust).	
5.1	East Sussex County Council	1
5.2	West Sussex County Council	1
5.3	Brighton & Hove City Council	1
7.	7 partnership governors appointed by the following bodies (to be appointed pursuant to the process to be agreed between the partners and the trust).	
7.1	University Governor appointed by the following universities The University of Sussex The University of Brighton	1
7.2	Sussex acute NHS Trust or Sussex acute NHS Foundation Trust. Eligible organisations: Brighton and Sussex University Hospitals NHS Trust, East Sussex Hospitals NHS Trust, Royal West Sussex NHS Trust, Worthing and Southlands Hospitals NHS Trust	1
7.3	Local Businesses nominated by Sussex Enterprise	1
7.4	Third sector organisations (national charity at a local level, housing association or an association helping people back into employment). Eligible third sector organisations: MIND, Rethink, Richmond Fellowship, Southdown Housing Association	3
7.5	Sussex Police	1
<b>TOTAL</b>		<b>41</b>

# ANNEX 5 –THE MODEL RULES FOR ELECTIONS

## Model Rules for Elections to the Council of Governors

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### ***Part 1 – Interpretation***

1. Interpretation

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

2. Timetable
3. Computation of time

### ***Part 3 – Returning Officer***

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

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

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

### ***Part 5 – Contested elections***

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

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

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

### ***The poll***

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

### ***Procedure for receipt of envelopes***

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

### ***Part 6 - Counting the votes***

- STV36. Interpretation of Part 6
- 37. Arrangements for counting of the votes
- 38. The count
- STV39. Rejected ballot papers
- FPP39. Rejected ballot papers
- STV40. First stage
- STV41. The quota
- STV42. Transfer of votes
- STV43. Supplementary provisions on transfer
- STV44. Exclusion of candidates
- STV45. Filling of last vacancies
- STV46. Order of election of candidates
- FPP46. Equality of votes

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

- FPP47. Declaration of result for contested elections
- STV47. Declaration of result for contested elections
- 48. Declaration of result for uncontested elections

### ***Part 8 – Disposal of documents***

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

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

- FPP54. Countermand or abandonment of poll on death of candidate
- STV54. Countermand or abandonment of poll on death of candidate

## ***Part 10 – Election expenses and publicity***

### ***Expenses***

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

### ***Publicity***

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

## ***Part 11 – Questioning elections and irregularities***

- 61. Application to question an election

## ***Part 12 – Miscellaneous***

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

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### **Part 1 – Interpretation**

1. **Interpretation** – (1) In these rules, unless the context otherwise requires –

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

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

“the regulator” means the Independent Regulator for NHS foundation trusts; and

“the 2006 Act” means the National Health Service Act 2006.

(2) Other expressions used in these rules and in Schedule 7 to the 2006 Act have the same meaning in these rules as in that Schedule.

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

2. **Timetable** - The proceedings at an election shall be conducted in accordance with the following timetable.

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

3. **Computation of time** - (1) In computing any period of time for the purposes of the timetable –

(a) a Saturday or Sunday;

(b) Christmas day, Good Friday, or a bank holiday, or

(c) a day appointed for public thanksgiving or mourning,

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

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

### ***Part 3 – Returning Officer***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The returning Officer-

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

(b) is to prepare a nomination paper for signature at the request of any member of the corporation, but it is not necessary for a nomination to be on a form supplied by the returning Officer.

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

(a) full name,

(b) contact address in full, and

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

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

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

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

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

(a) that he or she is not prevented from being a member of the council of governors by paragraph 8 of Schedule 7 of the 2006 Act or by any provision of the constitution; and,

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

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

(a) they wish to stand as a candidate,

(b) their declaration of interests as required under rule 11, is true and correct, and

(c) their declaration of eligibility, as required under rule 12, is true and correct.

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

(a) decides that the candidate is not eligible to stand,

(b) decides that the nomination paper is invalid,

(c) receives satisfactory proof that the candidate has died, or

(d) receives a written request by the candidate of their withdrawal from candidacy.

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

(a) that the paper is not received on or before the final time and date for return of nomination papers, as specified in the notice of the election,

(b) that the paper does not contain the candidate's particulars, as required by rule 10;

(c) that the paper does not contain a declaration of the interests of the candidate, as required by rule 11,

(d) that the paper does not include a declaration of eligibility as required by rule 12, or

(e) that the paper is not signed and dated by the candidate, as required by rule 13.

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

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

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

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

(2) The statement must show –

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

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

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

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

**16. Inspection of statement of nominated candidates and nomination papers** –

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

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

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

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

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

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

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

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

### ***Part 5 – Contested elections***

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

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

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

(2) Every ballot paper must specify –

(a) the name of the corporation,

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

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

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

(e) instructions on how to vote,

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

(g) the contact details of the returning Officer.

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

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

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

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

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

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

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

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

(a) the name of the voter,

(b) the address of the voter,

(c) the voter's signature, and

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

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

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

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

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

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

**23. Notice of poll** - The returning Officer is to publish a notice of the poll stating—

(a) the name of the corporation,

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

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

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

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

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

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

(h) the contact details of the returning Officer.

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

(a) a ballot paper and ballot paper envelope,

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

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

(d) a covering envelope.

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

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

(2) The covering envelope is to have –

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

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

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

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

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

## ***The poll***

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

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

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

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

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

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

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

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

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

(a) the name of the voter, and

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

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

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

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

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

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

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

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

(a) the name of the voter, and

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

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

election, notwithstanding the fact that a declaration of identity if required has already been received by the returning Officer in the name of that voter.

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

(a) the name of the voter, and

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

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

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

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

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

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

(a) the name of the voter,

(b) the address of the voter,

(c) the voter’s signature, and

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

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

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

#### ***Procedure for receipt of envelopes***

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

(a) covering envelope, or

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

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

(a) the candidate for whom a voter has voted, or

(b) the unique identifier on a ballot paper.

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

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

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

(a) put the declaration of identity if required in a separate packet, and

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

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

(a) mark the ballot paper “disqualified”,

(b) if there is a declaration of identity accompanying the ballot paper, mark it as “disqualified” and attach it to the ballot paper,

(c) record the unique identifier on the ballot paper in a list (the “list of disqualified documents”); and

(d) place the document or documents in a separate packet.

**34. Declaration of identity but no ballot paper (public and patient constituency)** – Where the returning Officer receives a declaration of identity if required but no ballot paper, the returning Officer is to –

(a) mark the declaration of identity “disqualified”,

(b) record the name of the voter in the list of disqualified documents, indicating that a declaration of identity was received from the voter without a ballot paper; and

(c) place the declaration of identity in a separate packet.

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

(a) the disqualified documents, together with the list of disqualified documents inside it,

(b) the declarations of identity if required,

(c) the list of spoiled ballot papers,

(d) the list of lost ballot papers,

(e) the list of eligible voters, and

(f) the list of tendered ballot papers.

### ***Part 6 - Counting the votes***

**STV36. Interpretation of Part 6** – In Part 6 of these rules –

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

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

“deemed to be elected” means deemed to be elected for the purposes of counting of votes but without prejudice to the declaration of the result of the poll, “mark” means a figure, an identifiable written word, or a mark such as “X”,

“non-transferable vote” means a ballot paper –

- (a) on which no second or subsequent preference is recorded for a continuing candidate, or
- (b) which is excluded by the returning Officer under rule STV44(4) below,

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

- (a) “first preference” means the figure “1” or any mark or word which clearly indicates a first (or only) preference,
- (b) “next available preference” means a preference which is the second, or as the case may be, subsequent preference recorded in consecutive order for a continuing candidate (any candidate who is deemed to be elected or is excluded thereby being ignored); and
- (b) in this context, a “second preference” is shown by the figure “2” or any mark or word which clearly indicates a second preference, and a third preference by the figure “3” or any mark or word which clearly indicates a third preference, and so on,

“quota” means the number calculated in accordance with rule STV41 below,

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

“stage of the count” means –

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

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

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

“transfer value” means the value of a transferred vote calculated in accordance with paragraph (4) or (7) of rule STV42 below.

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

**38. The count** – (1) The returning Officer is to –

- (a) count and record the number of ballot papers that have been returned, and
- (b) count the votes according to the provisions in this Part of the rules.

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

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

**STV39. Rejected ballot papers – (1) Any ballot paper –**

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

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

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

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

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

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

**FPP39. Rejected ballot papers – (1) Any ballot paper –**

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

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

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

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

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

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

(a) elsewhere than in the proper place,

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

(c) by more than one mark,

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

(4) The returning Officer is to:

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

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

(5) The returning Officer is to draw up a statement showing the number of rejected ballot papers under the following headings –

(a) does not bear proper features that have been incorporated into the ballot paper,

(b) voting for more candidates than the voter is entitled to,

(c) writing or mark by which voter could be identified, and

(d) unmarked or rejected because of uncertainty,

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

**STV40. First stage** – (1) The returning Officer is to sort the ballot papers into parcels according to the candidates for whom the first preference votes are given.

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

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

**STV41. The quota** – (1) The returning Officer is to divide the number of valid ballot papers by a number exceeding by one the number of members to be elected.

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

(3) At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in paragraphs (1) to (3) of rule 44 has been complied with.

**STV42. Transfer of votes** – (1) Where the number of first preference votes for any candidate exceeds the quota, the returning Officer is to sort all the ballot papers on which first preference votes are given for that candidate into sub-parcels so that they are grouped –

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

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

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

(3) The returning Officer is, in accordance with this rule and rule STV43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (1)(a) to the candidate for whom the next available preference is given on those papers.

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

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

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

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

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

(6) The returning Officer is, in accordance with this rule and rule STV43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (5)(a) to the candidate for whom the next available preference is given on those papers.

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

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

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

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

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

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

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

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

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

**STV43. Supplementary provisions on transfer** – (1) If, at any stage of the count, two or more candidates have surpluses, the transferable papers of the candidate with the highest surplus shall be transferred first, and if –

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

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

(2) The returning Officer shall, on each transfer of transferable papers under rule STV42 above –

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

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

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

And

(d) compare:

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

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

(3) All ballot papers transferred under rule STV42 or STV44 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that paper or, as the case may be, all the papers in that sub-parcel.

(4) Where a ballot paper is so marked that it is unclear to the returning Officer at any stage of the count under rule STV42 or STV44 for which candidate the next preference is recorded, the returning Officer shall treat any vote on that ballot paper as a non-transferable vote; and votes on a ballot paper shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning Officer, the same order of preference is indicated or the numerical sequence is broken.

**STV44. Exclusion of candidates – (1) If:**

(a) all transferable papers which under the provisions of rule STV42 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and

(b) subject to rule STV45 below, one or more vacancies remain to be filled, the returning Officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where paragraph (12) below applies, the candidates with the then lowest votes).

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

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

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

(3) The returning Officer shall, in accordance with this rule and rule STV43 above, transfer each sub-parcel of ballot papers referred to in paragraph (2)(a) above to the candidate for whom the next available preference is given on those papers.

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

(5) If, subject to rule STV45 below, one or more vacancies still remain to be filled, the returning Officer shall then sort the transferable papers, if any, which had been transferred to any candidate excluded under paragraph (1) above into sub-parcels according to their transfer value.

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

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

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

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

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

(a) record –

(i) the total value of votes, or

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

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

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

(d) compare—

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

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

(11) If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with paragraphs (5) to (10) of rule STV42 and rule STV43.

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

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

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

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

**STV45. Filling of last vacancies** – (1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

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

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

**STV46. Order of election of candidates** – (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule STV42(10) above.

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

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

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

**FPP46. Equality of votes** – Where, after the counting of votes is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning Officer is to decide between those candidates by a lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

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

**FPP47. Declaration of result for contested elections** – (1) In a contested election, when the result of the poll has been ascertained, the returning Officer is to –

(a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the board of governors from the constituency, or class within a constituency, for which the election is being held to be elected,

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

(i) where the election is held under a proposed constitution pursuant to powers conferred on the Sussex Partnership NHS Trust by section 33(4) of the 2006 Act, to the chairman of the NHS Trust, or

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

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

(2) The returning Officer is to make –

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

(b) the number of rejected ballot papers under each of the headings in rule FPP39(5), available on request.

**STV47. Declaration of result for contested elections** – (1) In a contested election, when the result of the poll has been ascertained, the returning Officer is to—

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

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

(i) where the election is held under a proposed constitution pursuant to powers conferred on the Sussex Partnership NHS Trust by section 33(4) of the 2006 Act, to the chairman of the NHS Trust, or

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

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

(2) The returning Officer is to make –

- (a) the number of first preference votes for each candidate whether elected or not,
- (b) any transfer of votes,
- (c) the total number of votes for each candidate at each stage of the count at which such transfer took place,
- (d) the order in which the successful candidates were elected, and
- (e) the number of rejected ballot papers under each of the headings in rule STV39(1), available on request.

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

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

### ***Part 8 – Disposal of documents***

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

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

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

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

(a) any voting documents are received by the returning Officer after the close of the poll, or

(b) any envelopes addressed to eligible voters are returned as undelivered too late to be resent, or

(c) any applications for replacement ballot papers are made too late to enable new ballot papers to be issued, the returning Officer is to put them in a separate packet, seal it up, and endorse and forward it to the chairman of the corporation.

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

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

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

**53. Application for inspection of certain documents relating to an election** –

(1) The corporation may not allow the inspection of, or the opening of any sealed packet containing –

(a) any rejected ballot papers, including ballot papers rejected in part,

(b) any disqualified documents, or the list of disqualified documents,

(c) any counted ballot papers,

(d) any declarations of identity, or

(e) the list of eligible voters, by any person without the consent of the Regulator.

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

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

(a) persons,

(b) time,

(c) place and mode of inspection,

(d) production or opening, and the corporation must only make the documents available for inspection in accordance with those terms and conditions.

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

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

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

(i) that his or her vote was given, and

(ii) that the regulator has declared that the vote was invalid.

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

**FPP54. Countermand or abandonment of poll on death of candidate** – (1) If, at a contested election, proof is given to the returning Officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning Officer is to

(a) countermand notice of the poll, or, if ballot papers have been issued, direct that the poll be abandoned within that constituency or class, and

(b) order a new election, on a date to be appointed by him or her in consultation with the corporation, within the period of 40 days, computed in accordance with rule 3 of these rules, beginning with the day that the poll was countermanded or abandoned.

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

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

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

(5) The returning Officer is to –

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

(b) seal up the ballot papers into packets, along with the records of the number of ballot papers.

(6) The returning Officer is to endorse on each packet a description of –

(a) its contents,

(b) the date of the publication of notice of the election,

(c) the name of the corporation to which the election relates, and

(d) the constituency, or class within a constituency, to which the election relates.

(7) Once the documents relating to the poll have been sealed up and endorsed pursuant to paragraphs (4) to (6), the returning Officer is to deliver them to the chairman of the corporation, and rules 52 and 53 are to apply.

**STV54. Countermand or abandonment of poll on death of candidate** – (1) If, at a contested election, proof is given to the returning Officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning Officer is to –

(a) publish a notice stating that the candidate has died, and

(b) proceed with the counting of the votes as if that candidate had been excluded from the count so that –

(i) ballot papers which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted, and

(ii) ballot papers which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences marked for the candidate who has died.

(2) The ballot papers which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot papers pursuant to rule 49(1)(a).

## ***Part 10 – Election expenses and publicity***

### ***Election expenses***

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

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

(a) personal expenses,

(b) travelling expenses, and expenses incurred while living away from home, and

(c) expenses for stationery, postage, telephone, internet (or any similar means of communication) and other petty expenses, to a limit of £100.

**57. Election expenses incurred by other persons** – (1) No person may –

(a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise, or

(b) give a candidate or his or her family any money or property (whether as a gift, donation, loan, or otherwise) to meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.

(2) Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 58 and 59.

### ***Publicity***

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

(a) compile and distribute such information about the candidates, and

(b) organise and hold such meetings to enable the candidates to speak and respond to questions, as it considers necessary.

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

(a) objective, balanced and fair,

(b) equivalent in size and content for all candidates,

(c) compiled and distributed in consultation with all of the candidates standing for election, and

(d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.

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

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

(2) The information must consist of –

(a) a statement submitted by the candidate of no more than 250 words.

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

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

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

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

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

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

(a) a person who voted at the election or who claimed to have had the right to vote, or

(b) a candidate, or a person claiming to have had a right to be elected at the election.

(4) The application must –

(a) describe the alleged breach of the rules or electoral irregularity, and

(b) be in such a form as the Regulator may require.

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

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

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

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

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

## ***Part 12 – Miscellaneous***

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

(a) the returning Officer,

(b) the returning Officer's staff, must maintain and aid in maintaining the secrecy of the voting and the counting of the votes, and must not, except for some purpose authorised by law, communicate to any person any information as to –

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

(ii) the unique identifier on any ballot paper,

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

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

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

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

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

(a) a member of the corporation,

(b) an employee of the corporation,

(c) a director of the corporation, or

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

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

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

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

## **ANNEX 6**

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

#### **1. Eligibility to be on the council of governors**

- 1.1 A person may not become or continue as a governor of the Trust if:
- 1.1.1 in the case of an elected governor, he ceases to be a member of the constituency he represents;
  - 1.1.2 in the case of an appointed governor, the sponsoring organisation withdraws their sponsorship of him;
  - 1.1.3 he has within the preceding two years been dismissed, otherwise than by reason of redundancy or ill health, from any paid employment with a health service body;
  - 1.1.4 he is a person whose tenure of office as the 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 interest of the health service;
  - 1.1.5 he is a director of the Trust, or a governor, executive director, non-executive director, chair, chief executive of another health service body, or a body corporate whose business involves the provision of health care services or whose business involves the provision of goods or services to the Trust;
  - 1.1.6 he has had his name removed from a list maintained under regulations pursuant to sections 91, 106, 123, or 146 of the 2006 Act, or the equivalent lists maintained by Local Health Boards in Wales under the National Health Service (Wales) Act 2006, and he has not subsequently had his name included in such a list;
  - 1.1.7 he has refused without reasonable cause to undertake any training which the Trust and/or council of governors requires all governors to undertake;
  - 1.1.8 he is a member of a local authority Health Oversight and Scrutiny Committee;
  - 1.1.9 he is the subject of a Sex Offenders Order and/or his name is included in the Sex Offenders Register;
  - 1.1.10 he has failed to repay (without good cause) any amount of monies properly owed to the Trust;
  - 1.1.11 he has failed to sign and deliver to the Secretary a statement in the form required by the Trust confirming acceptance of the Governor's Code of Conduct;
  - 1.1.12 he has demonstrated aggressive or violent behaviour at any Trust site and following such behaviour he has been asked to leave, has been removed or excluded from any Trust site or healthcare facility in accordance with the relevant Trust policy for withholding treatment from violent/aggressive patients;
  - 1.1.13 he is deemed to have acted in a manner contrary to the interests of the Trust.
- 1.2 Where a person has been elected or appointed to be a governor and he becomes disqualified or is removed from office, the Secretary shall immediately declare that the person in question is disqualified and notify him in writing to that effect. Upon despatch of any such notification;

- 1.2.1 that person's tenure of office, if any, shall be terminated and he shall cease to act as a governor; and
- 1.2.2 The Secretary shall inform the chair of the actions taken in respect of the person in question and the reasons for such action.

## **2. Roles and Responsibilities of governors**

2.1 The roles and responsibilities of the governors are:

2.1.1 at a general meeting (which may be the annual meeting):

- 2.1.1.1 Subject to paragraph 21 of this Constitution, to appoint or remove the chair and the other non-executive directors. The removal of a non-executive director requires the approval of three-quarters of the members of the council of governors;
- 2.1.1.2 to decide the remuneration and allowances, and the other terms and conditions of office, of the non-executive directors;
- 2.1.1.3 to appoint or remove the Auditor;
- 2.1.1.4 to be presented with the annual accounts, any report of the Auditor on them and the Annual Report;
- 2.1.1.5 to consider disputes as to membership and/or
- 2.1.1.6 to consider resolutions to remove a governor.

2.2 at a general meeting or otherwise:

- 2.2.1 approve (by a majority of the council of governors voting) an appointment (by the non-executive directors) of the chief executive (and Accounting Officer) other than the initial chief executive appointed in accordance with paragraph 19 (5) of Schedule 7 to the 2006 Act;
- 2.2.2 give the views of the council of governors to the directors for the purposes of the preparation (by the directors) of the forward planning in respect of each Financial Year to be given to the Independent Regulator;
- 2.2.3 consider the annual accounts, any report of the Auditor on them and the Annual Report; and/or
- 2.2.4 respond as appropriate when consulted by the directors.

2.3 The governors also have the specific role and function of:

- 2.3.1 providing views to the board of directors on the strategic direction of the Trust;
- 2.3.2 developing membership;
- 2.3.3 representing the interests of all the members (and not just the constituency which elected them); and
- 2.3.4 holding the board of directors to account in relation to the Trust's performance in accordance with the terms of the Authorisation.

- 2.4 Exercising other functions at the request of the board of directors.
- 2.5 The governors are expected to bring their individual skills and knowledge to bear on the exercise of their functions, but are expected to act collectively and not in pursuit of sectional interests.

### **3. Remuneration**

- 3.1 Governors are not to receive remuneration for undertaking their role and responsibilities as governors of the Trust.

### **4. Vacancies**

- 4.1 In the event of an elected governor's seat falling vacant for any reason before the end of the term of office it shall be filled by the second place candidate in the last held election for that seat provided that the second place candidate achieved at least five percent of the vote in the last held election for that seat. If that individual declines it shall be filled by the third place candidate provided that the third place candidate achieved at least five percent of the vote in the last held election for that seat (the "reserve governor"). If the vacancy is filled in this way the reserve governor shall be eligible to serve two full 3 year terms (subject to re-election) in addition to the partial term served. If the vacancy is not filled in this way elected governors shall be replaced by by-elections, in accordance with the Model Rules for Election.
- 4.2 In the event that a reserve governor is not available a by-election shall be held unless an election is due within 6 months in which case the seat shall stand vacant until the following scheduled election.
- 4.3 In the event of an appointed governor's seat falling vacant for any reason before the end of the term of office, the Trust will request that the relevant other partnership organisation appoint a "replacement governor" within 30 days.
- 4.4 The validity of any act of the council of governors is not affected by any vacancy among the governors or by any defect in the appointment of any governor.

### **5. Meetings**

- 5.1 The council of governors is to meet at least three times per year, including an annual meeting no later than 30 September in each year apart from the first year, when the council of governors is to receive and consider the annual accounts and any report of the Auditor on them and the board of directors is to present to the council of governors the Annual Report and a report on the membership strategy.
- 5.2 The Secretary shall call meetings in accordance with standing order 4 of the standing orders for the council of governors (Annex 8).
- 5.3 Any meeting of the council of governors requires a quorum of one third of the total number of governors to be present with a majority of those present being from the public and service user constituencies.

### **6. Committees and Sub-Committees**

- 6.1 The council of governors may appoint Committees consisting wholly or partly of its members to assist it in carrying out its functions. A Committee appointed under this paragraph may appoint a sub-Committee.

- 6.2 The council of governors may appoint members to serve on joint Committees with the board of directors or Committees thereof.
- 6.3 These Committees or sub-Committees may call upon outside advisers to help them in their tasks, provided that the financial and other implications of seeking outside advisers have been discussed and agreed by the board of directors. Any conflict arising between the council of governors and the board of directors under this paragraph will be determined in accordance with the dispute resolution procedures.

**7. Terms of office for initially elected governors to the council of governors**

<b>Constituency</b>	<b>Number of governors who shall serve 2 years</b>	<b>Number of governors who shall serve 3 years</b>
Public constituency governors		
Brighton & Hove	1	1
East Sussex	1	1
West Sussex	1	1
Service user governors		
Brighton & Hove	1	2
East Sussex	1	3
West Sussex	2	3
Carers	1	2
Staff governors	3	3

- 7.1 Governors who polled the highest number of votes will serve three years.
- 7.2 Where there are uncontested seats in a class, the chair and governors will agree the term of office for each governor within that class.

## **ANNEX 7 FURTHER PROVISIONS**

### **1. NHS Core Principles**

- 1.1 The NHS will provide a universal service for all based on clinical need, not ability to pay.
- 1.2 The NHS will provide a comprehensive range of services.
- 1.3 The NHS will shape its services around the needs and preferences of individual patients, their families and their carers.
- 1.4 The NHS will respond to different needs of different populations.
- 1.5 The NHS will work continuously to improve the quality of services and to minimise errors.
- 1.6 The NHS will support and value its staff.
- 1.7 The NHS will work together with others to ensure a seamless service for patients.
- 1.8 The NHS will help keep people healthy and work to reduce health inequalities.
- 1.9 The NHS will respect the confidentiality of individual patients and provide open access to information about services, treatment and performance.

### **2. Representative Membership**

- 2.1 The Trust shall at all times strive to ensure that, taken as a whole, its actual membership is representative of those eligible for membership. To this end:
- 2.2 The Trust shall at all times have in place and pursue a membership strategy which shall be approved by the council of governors and shall be reviewed by them from time to time and at least every year.
- 2.3 The Trust shall present to each annual meeting of the council of governors:
  - 2.3.1 a report on steps taken to secure that, taken as a whole, the actual membership of its constituencies and the classes of constituencies is representative of those eligible for such membership;
  - 2.3.2 the progress of the membership strategy;
  - 2.3.3 any changes to the membership strategy.

### **3. Co-operation with health service and other bodies**

- 3.1 In exercising its functions the Trust shall co-operate with health service bodies and any local authority with which the Trust has a Local Authority Partnership Agreement.
- 3.2 Notwithstanding the provisions of paragraph 3.1 above, the Trust shall co-operate with any specific third party body that it has a duty (statutory, contractual, or otherwise) to co-operate with.

#### **4. Respect for rights of people**

4.1 In conducting its affairs, the Trust shall respect the rights of the members of the community it serves, its employees and people dealing with the Trust as set out in the Human Rights Act 1998.

#### **5. Disqualification from membership**

5.1 A person may not be a member of the Trust if they are under 14 years of age.

5.2 A person may not become or remain a member if they do not meet the requirements of eligibility under this Constitution

5.3 A person may not become a member of the Trust if they have been removed from membership by the council of governors within the preceding 5 years.

5.4 Where the Trust is on notice that a member may be disqualified from membership, or may no longer be eligible to be a member the Secretary shall give the member 14 days written notice to show cause why his name should not be removed from the register of members. On receipt of any such information supplied by the member, the Secretary may, if he considers it appropriate, remove the member from the register of members. Any dispute about entitlement to membership will be resolved by the Secretary.

5.5 All members of the Trust shall be under a duty to notify the Secretary of any change in their particulars which may affect their entitlement as a member.

#### **6. Expulsion from membership of the Trust**

6.1 A member may be expelled by a resolution approved by not less than two-thirds of the members of the council of governors present and voting at a meeting of the council of governors on the following grounds:

6.1.1 if he has demonstrated aggressive or violent behaviour at any Trust site and following such behaviours has been asked to leave, has been removed or excluded from any Trust site or other healthcare facility in accordance with the relevant Trust policy for withholding treatment from violent/aggressive patients or

6.1.2 if he is deemed to have acted in a manner contrary to the interests of the Trust.

6.2 The following procedure is to be adopted:

6.2.1 Any member may complain to the Secretary that another member has acted in a way which would justify expulsion in accordance with paragraphs 5 - 6 above.

6.2.2 If a complaint is made, the council of governors may itself consider the complaint, having taken such steps as it considers appropriate, to ensure that each member's point of view is heard and may either:

6.2.2.1 dismiss the complaint and take no further action; or

6.2.2.2 arrange for a resolution to expel the member complained of to be considered at the next meeting of the council of governors.

## **7. Termination of Membership**

7.1 A member shall cease to be a member on:

7.1.1 death;

7.1.2 notice to the membership office;

7.1.3 ceasing to fulfil the requirements of paragraphs 6,7 and 8 of this Constitution, as the case may be; or

7.1.4 being disqualified pursuant to paragraph 5 above, or being expelled pursuant to paragraph 6 above.

## **8. Indemnity**

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

8.2 The Trust may take out insurance either through the NHS Litigation Authority or otherwise in respect of directors and Officers liability, including liability arising by reason of the Trust acting as a corporate trustee of an NHS charity.

## **9. Dispute Resolution Procedures**

9.1 In the event of any dispute about the entitlement to membership the dispute shall be referred to the Secretary who shall make a determination on the point in issue. If the member or applicant (as the case may be) is aggrieved at the decision of the Secretary he may appeal in writing within 14 days of the Secretary's decision to the council of governors whose decision shall be final.

9.2 In the event of any dispute about the eligibility and disqualification of a governor, the dispute shall be referred to the council of governors whose decision shall be final.

9.3 In the event of dispute between the council of governors and the board of directors or between a governor and the council of governors:

9.3.1 in the first instance the chair on the advice of the Secretary, and such other advice as the chair may see fit to obtain, shall seek to resolve the dispute;

9.3.2 if the chair is unable to resolve the dispute he shall appoint a special Committee comprising equal numbers of directors and governors to consider the circumstances and to make recommendations to the council of governors and the board of directors with a view to resolving the dispute;

9.3.3 if the recommendations (if any) of the special Committee are unsuccessful in resolving the dispute, the chairman may refer the dispute back to the board of directors who shall make the final decision.

**10. Amendment of the Constitution**

- 10.1 The Trust may make amendments to this Constitution with the approval of the Independent Regulator.
- 10.2 No proposals for amendment of this Constitution will be put to the Independent Regulator unless it has been approved by three-quarters of the board of directors following consultation with the council of governors and consideration of their views.

**11. Dissolution of the Trust**

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

**Annex 8**

**SUSSEX PARTNERSHIP NHS FOUNDATION TRUST  
STANDING ORDERS FOR THE COUNCIL OF GOVERNORS**

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## INTRODUCTION

- 1.1 The Sussex Partnership NHS Foundation Trust ("the Trust") became a Public Benefit Corporation on [ ]<sup>1</sup> following authorisation by the Independent Regulator of NHS Foundation Trusts (the "Independent Regulator" pursuant to the National Health Service Act 2006 (the "2006 Act").
- 1.2 The principal place of business of the Trust is Trust Headquarters, Swandean, Arundel Road, Worthing BN13 3EP.
- 1.3 The Trust is governed by the 2006 Act, its Constitution and its terms of Authorisation granted by the Independent Regulator (the Regulatory Framework). The functions of the Trust are conferred by the Regulatory Framework. The Regulatory Framework requires the council of governors of the Trust to adopt Standing orders for the regulation of its proceedings and business and to adhere at all times to the code of conduct for governors.

## 2 DEFINITIONS

- 2.1 Headings are for ease of reference only and are not to affect interpretation.
- 2.2 Words importing the masculine gender only shall include the feminine gender; words importing the singular shall import the plural and vice-versa.
- 2.3 In these standing orders:

**"2006 Act"**

means the National Health Service Act 2006;

**"Accounting Officer"**

means the NHS Officer responsible and accountable for the funds entrusted to the Trust. The Officer shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the chief executive;

**"Annual Report"**

means a report prepared by the Trust pursuant to paragraph 26 of Schedule 7 to the 2006 Act;

**"Audit Committee"**

means a Committee of the board of directors as established pursuant to paragraph 34 of this Constitution;

**"Auditor"**

means the Auditor of the Trust appointed by the council of governors pursuant to paragraph 33 of this Constitution;

**"Authorisation"**

means the authorisation issued to the Trust by the Independent Regulator under section 35 of the 2006 Act;

**"Budget"**

means a resource, expressed in financial terms, proposed by the board for the purposes of carrying out, for a specific period, any or all of the functions of the Trust;

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<sup>1</sup> Date to be inserted following authorisation.

**"Budget Holder"**

means the director of employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation;

**"Clear Day"**

means a day of the week not including Saturday, Sunday or a public holiday;

**"Committee"**

means a Committee or sub-Committee created and appointed by the Trust;

**"Constitution"**

means this Constitution together with the annexes and appendices attached hereto;

**"Directors Code of Conduct"**

means the Code of Conduct for Directors of the Trust, as adopted by the applicant NHS trust and as amended from time to time by the board of directors, to which all directors must subscribe;

**" Finance Director "**

means the Chief Financial Officer of the Trust;

**"Financial Year"**

means:

(a) a period beginning with the date on which the Trust is authorised as an NHS Foundation Trust and ending with the next 31 March; and

(b) each successive period of twelve months beginning with 1 April;

**"Health Oversight and Scrutiny Committee"**

means a Committee whose functions are concerned with the arrangements for monitoring and improving the quality of health and social care services for which Sussex Partnership NHS Foundation Trust has responsibility;

**"Hospital"**

means those premises of the Sussex Partnership NHS Trust and all associated hospitals and facilities at which the Trust provides and/or manages the provision of goods and/or services;

**"Independent Regulator"**

means the regulator of NHS foundation trusts established under Part 2, Chapter 5 (Section 31) of the 2006 Act and known as Monitor;

**"Officer"**

means employee of the Trust or any other person holding a paid appointment or office with the Trust;

**"Secretary"**

means a person appointed to act independently of the board to provide advice on corporate governance issues to the board and the chair and monitor the Trust's compliance with the law, Standing orders and guidance issued by the Independent Regulator;

**"Sex Offenders Order"**

means a Sexual Offences Preventative Order made under section 104 of the Sexual Offences Act 2003, or a Risk of Sexual Harm Order made under section 123 of the Sexual Offences Act 2003;

**"Sex Offenders Register"**

means the Register of Sex Offenders maintained under Part I of the Sex Offenders Act 1997 (as amended by the Sexual Offences Act 2003);

**"Trust"**

means Sussex Partnership NHS FoundationTrust;

**"Vice Chair"**

means the non-executive director appointed by the board to take on the chair's duties if the chair is absent for any reason;

### **3 THE COUNCIL OF GOVERNORS**

- 3.1 The roles and responsibilities of the governors are set out in Paragraph 2 of Annex 6 of the Constitution and also have effect as if incorporated into the standing orders. Certain powers and decisions may only be exercised by the council of governors in formal session.

### **4 MEETINGS OF THE COUNCIL OF GOVERNORS**

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

4.1.1 The public and representatives of the press shall be afforded facilities to attend all formal meetings of the council of governors except where it resolves by special resolution that members of the public and representatives of the press be excluded from all or part of a meeting on the grounds that:

4.1.1.1 any publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted; or

4.1.1.2 for other reasons stated in the resolution and arising from the nature of the business or the proceedings that the council of governors believe are special reasons for excluding the public from the meeting in accordance with the Constitution.

#### **4.2 Confidentiality**

4.2.1 Nothing in these standing orders shall require the council of governors to allow members of the public and representatives of the press to record proceedings in any manner whatsoever, other than writing, or to make any oral report of proceedings as they take place, without the prior agreement of the council of governors.

4.2.2 Matters to be dealt with by the council of governors following the exclusion of members of the public and representatives of press shall be confidential to the council of governors.

- 4.2.3 Council members, directors and Officers or any employee of the Trust in attendance shall not reveal or disclose the contents of papers marked 'In Confidence' outside of the meeting of the council of governors without the express permission of the council of governors. This prohibition shall apply equally to the content of any discussion during the council of governors' meeting which take place on such reports or papers.

### 4.3 **Calling Meetings**

- 4.3.1 Meetings of the council of governors shall be held at such times and places as the council of governors may determine.
- 4.3.2 There shall be at least three meetings in any year including:
  - 4.3.2.1 an annual meeting no later than the 30 September in each year apart from the first year, when the council of governors is to receive and consider the annual accounts and any report of the Auditor on them, and the board of directors is to present to the council of governors the Annual Report and a report on the membership strategy.
  - 4.3.2.2 any other meetings required of the governors in order to fulfil their functions in accordance with the Constitution.
- 4.3.3 The chair may call a meeting of the council of governors at any time. If the chair refuses to call a meeting after a requisition for that purpose, signed by at least one third of governors and specifying the business to be transacted at the meeting, has been presented to him, or if, without so refusing, the chair does not call a meeting within 5 clear days after such requisition has been presented to him at the Trust's Headquarters, such one third or more of the governors may forthwith call a meeting for the purpose of conducting that business.
- 4.3.4 The council of governors may invite the chief executive, a member of the board of directors or a representative of the Auditors or other advisors to attend a meeting of the council of governors.
- 4.3.5 The council of governors may agree that its governors can participate in its meetings by telephone or video link. Participation in a meeting in this manner shall be deemed to be exceptional but shall constitute presence in person at the meeting for the purposes of standing order 4.18 (Quorum).

### 4.4 **Notice of Meetings**

- 4.4.1 Before each meeting of the council of governors, 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, or sent by post to the usual place of residence of every Governor, so as to be available to him at least five Clear Days before the meeting save in the case of emergencies.

- 4.4.2 Before each meeting of the council of governors a public notice of the time and place of the meeting, and if possible the public part of the agenda, shall be displayed at the Trust's headquarters and shall be advertised on the Trust's website at least five Clear Days before the meeting, save in the case of emergencies.
- 4.4.3 Want of service of the notice on any one governor shall not affect the validity of a meeting.
- 4.4.4 In the case of a meeting called by governors in default of the chair, the notice shall be signed by those governors and no business shall be transacted at the meeting other than that specified in the notice. Failure to serve such a notice on more than three governors will invalidate the meeting. A notice shall be presumed to have been served one day after posting.
- 4.4.5 Agendas will be sent to governors before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be despatched no later than five Clear Days before the meeting, save in the case of emergencies. It is the responsibility of the chair to ensure that sufficient information is provided to governors to ensure that rational discussion can take place.
- 4.4.6 In the event of an emergency giving rise to the need for an immediate meeting, failure to comply with the notice periods referred to in standing order 4.4 shall not prevent the calling of or invalidate such meeting provided that every effort is made to contact members of the council of governors who are not absent from the United Kingdom and the agenda for the meeting is restricted to matters arising in that emergency.
- 4.5 Setting the Agenda**
- 4.5.1 The council of governors may determine that certain matters shall appear on every agenda for a meeting and shall be addressed prior to any other business being conducted.
- 4.5.2 A member of the council of governors desiring a matter to be included on an agenda, including a formal proposition for discussion and voting on at a meeting, shall make his request in writing to the chair at least 10 Clear Days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 10 Clear Days before a meeting may be included on the agenda at the discretion of the chair.
- 4.6 Motions and Propositions**
- 4.6.1 Where a governor has requested inclusion of a matter on the agenda in accordance with standing order 4.5.2 above as a matter to be formally proposed for discussion and voting on at the meeting, the provisions of this standing order 4.6 shall apply in respect of the proposition:

- 4.6.2 The mover of the proposition shall have a right of reply at the close of any discussion on the proposition or any amendment thereto.
- 4.6.3 When a proposition is under discussion or immediately prior to discussion it shall be open to a governor to move:
  - 4.6.3.1 an amendment to the proposition;
  - 4.6.3.2 the adjournment of the discussion or the meeting;
  - 4.6.3.3 that the meeting proceed to the next business;
  - 4.6.3.4 the appointment of an ad hoc Committee to deal with a specific item of business;
  - 4.6.3.5 that the motion be now put;
  - 4.6.3.6 that the public be excluded from the meeting in relation to the discussion concerning the proposition under standing order 4.1.
- 4.6.4 To ensure objectivity matters may only be put by a governor who has not previously taken part in the debate and who is eligible to vote.
- 4.6.5 No amendment to the proposition shall be admitted if, in the opinion of the chair of the meeting, the amendment negates the substance of the proposition.
- 4.7 **Petitions**
  - 4.7.1 Where a petition has been received by the Trust, the chair shall include the petition as an item for the agenda of the next meeting of the council of governors.
- 4.8 **Chair of Meeting**
  - 4.8.1 If the chair is absent from the meeting or is absent temporarily on the grounds of a declared conflict of interest, the Vice Chair shall exercise all the rights and obligations of the chair.
  - 4.8.2 If the Vice Chair is absent from the meeting or is absent temporarily on the grounds of a declared conflict of interest, another non-executive director as shall be appointed by the directors present shall preside.
  - 4.8.3 If any matter relates to the conduct or interests of the non-executive directors as a class, the council of governors shall elect one of their number to preside during that period and that person shall exercise all the rights and obligations of the chair.
- 4.9 **Report from the board of directors**

- 4.9.1 At each meeting of the council of governors, the board of directors is required to report to the council of governors on the Trust's general progress and forward planning.

#### **4.10 Chair's Ruling**

- 4.10.1 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 final.
- 4.10.2 The decision of the chair of the meeting on questions of interpretation of these standing orders shall be final.

#### **4.11 Voting**

- 4.11.1 A governor may not vote at a meeting of the council of governors unless, within 10 Clear Days prior to the commencement of the meeting he has made a declaration in the form specified within Schedule A of these standing orders, that he is a member of the constituency which elected him and is not prevented from being a member of the council of governors by paragraph 8 of Schedule 7 to the 2006 Act or under the Constitution.
- 4.11.2 Subject to standing order 4.11.4 below, every question at a meeting shall be determined by a majority of the votes of members present and voting on the question.
- 4.11.3 Whoever is chair of the meeting of the council of governors shall in the case of an equality of votes on any question or proposal have a second or casting vote.
- 4.11.4 A resolution for the removal of the chair or a non-executive director shall be passed only if three quarters of the total number of governors vote in favour of it.
- 4.11.5 All questions put to the vote shall, at the discretion of the chair of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the governors present so request.
- 4.11.6 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.
- 4.11.7 If a governor so requests, his vote shall be recorded by name upon any vote (other than by paper ballot).
- 4.11.8 A governor may only vote if present at the time of the vote on which the question is to be decided; no governor may vote by proxy but a

governor is considered to have been present at the meeting if they took part by telephone or video link and so is therefore entitled to vote.

#### **4.12 Annual Meeting**

4.12.1 The council of governors shall hold an annual meeting of the council of governors in every calendar year so that there are no more than fifteen calendar months between one meeting and the next and shall present to that meeting:

4.12.1.1 A report on the proceedings of its meetings held since the last annual meeting;

4.12.1.2 A report on the progress since the last annual meeting in developing the membership strategy including the steps taken to ensure that the actual membership of the public and service user constituencies is representative of the persons who are eligible to be members under the Constitution;

4.12.1.3 A report on any change to the governors which has taken place since the last annual meeting; and

4.12.1.4 A report containing such comments as it wishes to make regarding the performance of the Trust and the accounts of the Trust for the preceding Financial Year and the future service development plans of the Trust.

4.12.2 The reports for the first annual meeting shall cover the period from the Authorisation of the Trust as a Foundation Trust to the date of that meeting.

#### **4.13 Special Provisions relating to the Termination of a Governor's Tenure:**

4.13.1 Where a person has been elected or appointed to be a governor and he becomes disqualified from office under Paragraph 13 of the Constitution, he shall notify the Secretary in writing of such disqualification as soon as practicable and in any event within 14 days of the first becoming aware of those matters which render him disqualified. The Secretary shall forthwith remove him from the Register of the governors.

4.13.2 If it comes to the notice of the Secretary that the governor is disqualified under paragraph 13 of the Constitution, whether at the time of the governor's appointment or later, the Secretary shall immediately declare that the individual in question is disqualified and give him notice in writing to that effect as soon as practicable and in any event within 14 days of the date of the said declaration. In the event that the governor shall dispute that he is disqualified the governor may refer the matter to the dispute resolution procedures set out in Paragraph 9 of Annex 7 of the Constitution within 28 days of the date upon which the notice was given to the governor.

- 4.13.3 If a governor fails to attend two consecutive meetings of the council of governors, his tenure of office is to be terminated immediately unless the council of governors is satisfied by a two thirds majority that:
- 4.13.3.1 the absence was due to reasonable cause; and
  - 4.13.3.2 the governor concerned will be able to start attending meetings of the council of governors again within such period as they consider reasonable.
- 4.13.4 The chair shall be authorised to take such action as may be immediately required, including but not limited to exclusion of the governor concerned so that any allegation made against a governor on the following grounds can be investigated:
- 4.13.4.1 non-compliance with the core principles of the NHS as set out in Paragraph 1 of Annex 7 of the Constitution, the Authorisation, the code of conduct, standing orders and standing financial instructions; or
  - 4.13.4.2 failure to declare an interest as required by the Constitution or these standing orders, or if the governor in question has spoken or voted at a meeting on a matter in which he has an interest contrary to the Constitution or standing orders in accordance with Paragraph 16.1 of the Constitution.
- 4.13.5 Where any grounds within standing order 4.13.4 are alleged, it shall be open to the council of governors to decide, by three quarters of those present and voting, to lay a formal charge of non-compliance or misconduct.
- 4.13.6 The governor in question will be notified in writing of the allegations, detailing the specific behaviour which is considered to be detrimental to the Trust, and inviting and considering his response within a defined appropriate and reasonable timescale.
- 4.13.7 The governor may be invited to address the council of governors in person if the matter cannot be resolved satisfactorily through correspondence.
- 4.13.8 The governors, by three quarters majority of those present and voting and a majority of governors who are members of the public and service user constituencies of the Trust, can decide whether to uphold the charge of non-compliance or misconduct detrimental to the Trust.
- 4.13.9 The governors can impose such sanctions as shall be deemed appropriate. Such sanctions will range from the issuing of a written warning as to the governor's future conduct and consequences, non-payment of expenses and removal of the governor from office.
- 4.13.10 Upon disqualification in accordance with standing order 4.13.8, removal or termination of a governor's office under this standing

order, the Secretary shall cause his name to be removed immediately from the Register of Governors.

4.13.11 Any decision of the council of governors to terminate a governor's tenure of office may be referred by the governor concerned to the dispute resolution procedures set out in paragraph 9 of Annex 7 of the Constitution within 14 days of the date upon which notice in writing of the council of governors' decision made in accordance with standing order 4.13.9 is communicated to the Governor concerned.

4.13.12 A governor may resign from that office at any time during the term of that office by giving notice to the Secretary in writing, upon which he shall cease to hold office.

4.13.13 A governor who resigns under standing order 4.13.12 above or whose office is terminated under this standing order or Paragraph 13 of the Constitution shall not be eligible to stand for re-election to the council of governors for a period of five years from the date of his resignation or removal from office or the date upon which any appeal against his removal from office is disposed of whichever is later.

4.13.14 In the event that an elected governor's seat falls vacant before the end of the term of office, the provisions as set out at Paragraph 4 of Annex 6 of the Constitution shall apply.

#### 4.14 **Minutes**

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

4.14.2 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.

#### 4.15 **Suspension of Standing orders**

4.15.1 Except where this would contravene any statutory provision or any direction made by the Independent Regulator or the rules relating to quorum, any one or more of the standing orders may be suspended at any meeting, provided that at least two-thirds of the governors are present, there is a majority of governors who are members of the public and service user constituencies of the Trust, and that a majority of those present vote in favour of suspension.

4.15.2 A decision to suspend the standing orders and the reason for suspending shall be recorded in the minutes of the meeting.

4.15.3 A separate record of matters discussed during the suspension of standing orders shall be made and shall be available to the chair and governors.

4.15.4 No formal business may be transacted while standing orders are suspended.

4.15.5 The Audit Committee of the board of directors shall review every decision of the council of governors to suspend standing orders.

#### 4.16 **Variation and Amendment of Standing orders**

4.16.1 These standing orders shall be amended only if:

4.16.1.1 a notice of proposal under standing order 4.5.2 has been given; and

4.16.1.2 no fewer than half the total number of governors vote in favour of amendment; and

4.16.1.3 no fewer than half the total number of governors is present; and

4.16.1.4 the variation proposed has been approved by the board of directors and Independent Regulator and does not contravene the Constitution or a statutory provision.

#### 4.17 **Record of Attendance**

4.17.1 The names of the chair and governors present at the meeting shall be recorded in the minutes.

#### 4.18 **Quorum**

4.18.1 No business shall be transacted at a meeting unless at least one third of the total number of governors is present with a majority of those present being governors from the public and service user constituencies.

4.18.2 If at any meeting there is no quorum present within 30 minutes of the time fixed for the start of the meeting, the meeting shall stand adjourned for a minimum of five Clear Days to a maximum of 20 Clear Days and upon reconvening, those present shall constitute a quorum.

4.18.3 If a governor has been disqualified from participating in the discussion on any matter and/or from other voting on any resolution by reason of the declaration of a conflict of interest as provided in standing order 6 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.

### 5. **COMMITTEES**

5.1 Subject to such best practice advice and/or guidance as may be issued by the Independent Regulator, the council of governors may

and, if directed by the Independent Regulator, shall appoint Committees of the council of governors to assist it in the proper performance of its functions under the Constitution and the Regulatory Framework, consisting wholly or partly of the chair and governors.

- 5.2 All decisions taken in good faith at the meeting of the council of governors or at any meeting of a Committee shall be valid even if it is subsequently discovered that there was a defect in the calling of the meeting or the appointment of the governors attending the meeting.
- 5.3 A Committee appointed under standing order 5 may, subject to such best practice advice and/or guidance as may be issued by the Independent Regulator or the council of governors, appoint sub-Committees consisting wholly or partly of members of the Committee.
- 5.4 These standing orders, as far as they are applicable, shall apply with appropriate alteration to meetings of any Committees established by the council of governors with the terms “chair” to be read as a reference to the chair of the Committee, and the term “governor” to be read as a reference to a member of the Committee as the context permits.
- 5.5 Each such Committee shall have such terms of reference and powers and be subject to such conditions as the council of governors shall decide and shall be in accordance with the Regulatory Framework and any best practice advice and/or guidance issued by the Independent Regulator, but the council of governors shall not delegate to any Committee any of the powers or responsibilities which are to be exercised by the council of governors at a formal meeting. Such terms of reference shall have effect as if incorporated into the standing orders.
- 5.6 Where Committees are authorised to establish sub-Committees they may not delegate their powers to the sub-Committee unless expressly authorised by the council of governors.
- 5.7 Any Committee or sub-Committee established under this standing order 5 may call upon outside advisers to assist them with their tasks, subject to the advance agreement of the board of directors. Any conflict arising between the council of governors and the board of directors under this paragraph shall be determined in accordance with the dispute resolution procedures as set out in Paragraph 9 of Annex 7 of the Constitution.
- 5.8 The council of governors shall approve the appointments to each of the Committees which it has formally constituted.
- 5.9 Where the council of governors is required to appoint persons to a Committee to undertake statutory functions, and where such appointments are to operate independently of the council of governors, such appointments shall be made in accordance with applicable statute and regulations and with best practice advice and/or guidance issued by the Independent Regulator.

- 5.10 Where the council of governors determines that persons who are neither governors, nor directors or Officers of the Trust, shall be appointed to a Committee, the terms of such appointment shall be determined by the council of governors subject to the payment of travelling expenses and other allowances being in accordance with such sum as may be determined by the board of directors.
- 5.11 The council of governors may appoint members to serve on joint Committees with the board of directors or Committees of the board of directors.

**6. DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS**

**6.1 Declaration of Interests**

- 6.1.1 The Regulatory Framework and the Constitution require each governor to declare to the Secretary:
  - 6.1.1.1 any actual or potential interest, direct or indirect, which is relevant and material to the business of the Trust, as described in standing order 6.2.1; and
  - 6.1.1.2 any actual or potential pecuniary interest, direct or indirect, in any contract, proposed contract or other matter concerning the Trust, as described in standing orders 6.2.2 and 6.2.3; and
  - 6.1.1.3 any actual or potential family interest, direct or indirect, of which the governor is aware, as described in Standing order 6.2.5.
- 6.1.2 Such a declaration shall be made either at the time of the governor's election or appointment or as soon thereafter as the interest arises, but within five Clear Days of becoming aware of the existence of that interest, and in a form prescribed by the Secretary which shall be included as Schedule B.
- 6.1.3 In addition, 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 withdraw from the meeting and play no part in further discussion or decision.
- 6.1.4 Subject to standing order 6.2.4, if a governor has declared a pecuniary interest (as described in standing orders 6.2.2 and 6.2.3) he shall not take part in the consideration or discussion of the matter. At the time the interests are declared, they should be recorded in the governors' meeting minutes. Any changes in interests should be officially declared at the next relevant meeting following the change occurring and recorded in the minutes of that meeting.

- 6.1.5 This standing order 6 applies to any Committee, sub-Committee or joint Committee of the council of governors and applies to any member of any such Committee, sub-Committee, or joint Committee (whether or not he is also a governor).
- 6.1.6 The interests of governors in companies likely or possibly seeking to do business with the NHS should be published in the Trust's Annual Report. The information should be kept up to date for inclusion in succeeding Annual Reports.

## **6.2 Nature of Interests**

- 6.2.1 Interests which should be regarded as "relevant and material" are as follows and are to be interpreted in accordance with guidance issued by the Independent Regulator:
  - 6.2.1.1 directorship of other NHS Trust or NHS foundation trust;
  - 6.2.1.2 directorships, including non-executive directorships held in private companies or public limited companies (with the exception of those of dormant companies); or
  - 6.2.1.3 ownership, part-ownership or directorship of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS; or
  - 6.2.1.4 majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS; or
  - 6.2.1.5 a position of authority in a charity or voluntary organisation in the field of health and social care; or
  - 6.2.1.6 any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services; or
  - 6.2.1.7 any connection with an organisation, entity or company considering entering into or having entered into a financial agreement with the Trust, including but not limited to, lenders or banks.
- 6.2.2 A governor shall be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:
  - 6.2.2.1 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

- 6.2.2.2 he is a partner of, or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.
- 6.2.3 A governor shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:
  - 6.2.3.1 of his membership of a company or other body, if he has no beneficial interest in any securities of that company or other body; or
  - 6.2.3.2 of an interest in any company, body or person with which he is connected 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; or
  - 6.2.3.3 of any travelling or other expenses or allowances payable to a governor in accordance with the Constitution.
- 6.2.4 Where a governor:
  - 6.2.4.1 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
  - 6.2.4.2 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
  - 6.2.4.3 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 to disclose his interest.
- 6.2.5 A family interest is an interest of the spouse or partner or any parent, child, brother or sister of a governor which if it were the interest of that governor would be a personal interest or a pecuniary interest of his.
- 6.2.6 If governors have any doubt about the relevance or materiality of an interest, this should be discussed with the chair or secretary.

Influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.

### **6.3 Register of Governors**

6.3.1 The Register of Governors shall list the names of governors, their category of membership of the council of governors and an address through which they may be contacted which may be the Secretary.

### **6.4 Register of Governors' Interests**

6.4.1 The Secretary shall keep a Register of Interests of Governors which shall contain the names of each governor, whether he has declared any interest, and if so, the interest declared.

6.4.2 These details will be kept up to date by means of an annual review of the Register.

## **7 STANDARDS OF BUSINESS CONDUCT**

7.1 Members of the council of governors shall comply with the governors' Code of Conduct and any best practice advice and/or guidance issued by the Independent Regulator.

## **8 APPOINTMENTS AND RECOMMENDATIONS**

8.1 A governor shall not solicit for any person any appointment under the Trust or recommend any person for such appointment but this paragraph of this standing order shall not preclude a governor from giving written testimonial of a candidate's ability, experience or character for submission to the Trust in relation to any appointment.

8.2 Informal discussions outside appointments panels or Committees, whether solicited or unsolicited, should be declared to the panel or Committee.

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

9.4 The chair and every governor shall disclose to the chief executive or his delegated officer any relationship between himself and a candidate of whose candidature that governor or Officer is aware. It shall be the duty of the chief executive or his delegated officer to report to the council of governors any such disclosure made.

- 8.5 On appointment, members of the council of governors should disclose to the council of governors whether they are related to any other member of the council of governors or holder of any office in the Trust.
- 8.6 Where the relationship to a member of the council of governors of the Trust is disclosed, standing order 6 shall apply.

## **9 DISPUTE RESOLUTION PROCEDURE**

- 9.1 In the event of a dispute between the council of governors and board of directors:
- 9.1.1 In the first instance the chair on the advice of the secretary, and such other advice as the chair may see fit to obtain, shall seek to resolve the dispute;
- 9.1.2 If the Chair is unable to resolve the dispute he shall appoint a special committee comprising equal numbers of directors and governors to consider the circumstances and to make recommendations to the council of governors and the board of directors with a view to resolving the dispute;
- 9.1.3 If the recommendations (if any) of the special committee are unsuccessful in resolving the dispute, the chair may refer the dispute back to the board of directors who shall make the final decision.

## **10 MISCELLANEOUS**

- 10.1 The Secretary shall provide a copy of these standing orders to each governor and endeavour to ensure that each governor understands his responsibilities within these standing orders.
- 10.2 These standing orders including all documents having effect as if incorporated in them shall be reviewed annually by the board of directors and the council of governors.
- 10.3 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 council of governors for action or ratification. All governors have a duty to disclose any non-compliance with these standing orders to the chair as soon as possible.

## **Schedule A**

### **Declaration to the Secretary of Sussex Partnership NHS Trust Foundation Trust**

**I hereby declare that I am at the date of this declaration a member of the [Public/Service User/Staff] constituency, and I am not prevented from being a member of the council of governors by reason of any provision of paragraph 8 of Schedule 7 to the 2006 Act or the Constitution.**

Schedule B

**COUNCIL OF GOVERNORS**

**DECLARATION OF INTERESTS FORM**

There is a brief commentary on the reverse of the form for guidance. Please read this and Standing order 7, Declaration of Interests and Register of Interests in the Standing orders for the council of governors

**Name** .....

**Job Title** .....

**Department** .....

**Address** .....

.....

**Telephone Number** .....

**Nature of Interest**

.....

.....

.....

.....

.....

**Signed** .....

**Date** .....

**Please return this form to the Membership Office  
Trust Headquarters, Swandean, Arundel Road, Worthing, BN13 3EP**

This form should be completed when you, your partner or your immediate family have an interest, pecuniary or not, in a company, business or other organisation (including a charity) that has *current* dealings, has had *recent* dealings *or potentially* has dealings with the Trust.

Where there is nothing to declare, "Nil" should be written on the form.

No guidance can be exhaustive in detailing what should be or need not be included. If in doubt, please contact the Membership Office for guidance in your particular circumstances. Remember, it is far better to declare an interest unnecessarily rather than be found to have omitted to declare a relevant interest at a later date.

Finally, please remember that any declaration needs to be kept updated. A subsequent form should be completed for additions or to notify the Trust of deletions.

Annex 9

NEW LOGO

STANDING ORDERS

FOR THE BOARD OF DIRECTORS

July 2008

POLICY NUMBER	
RATIFYING COMMITTEE	Board of Directors
DATE RATIFIED	
DATE AVAILABLE ON INTRANET	
NEXT REVIEW DATE	
EXECUTIVE SPONSOR	
POLICY AUTHOR	

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## **SECTION A - INTERPRETATION AND DEFINITIONS FOR STANDING ORDERS**

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 they should be advised by the chief executive or Secretary to the board).

Any expression to which a meaning is given in the National Health Service Act 1977, National Health Service and Community Care Act 1990 and other Acts relating to the National Health Service or in the financial Regulations made under the Acts shall have the same meaning in these standing orders and standing financial instructions and in addition:

**"2006 Act"**

means the National Health Service Act 2006;

**"Accounting Officer"**

means the NHS Officer responsible and accountable for the funds entrusted to the Trust. The Officer shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the chief executive;

**"Annual Report"**

means a report prepared by the Trust pursuant to paragraph 26 of Schedule 7 to the 2006 Act;

**"Audit Committee"**

means a Committee of the board of directors as established pursuant to paragraph 34 of this Constitution;

**"Auditor"**

means the Auditor of the Trust appointed by the council of governors pursuant to paragraph 33 of this Constitution;

**"Authorisation"**

means the authorisation issued to the Trust by the Independent Regulator under section 35 of the 2006 Act;

**"Budget"**

means a resource, expressed in financial terms, proposed by the board for the purposes of carrying out, for a specific period, any or all of the functions of the Trust;

**"Budget Holder"**

means the director of employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation;

**"Clear Day"**

means a day of the week not including Saturday, Sunday or a public holiday;

**"Committee"**

means a Committee or sub-Committee created and appointed by the Trust;

**"Constitution"**

means this Constitution together with the annexes and appendices attached hereto;

**"Directors Code of Conduct"**

means the Code of Conduct for Directors of the Trust, as adopted by the applicant NHS trust and as amended from time to time by the board of directors, to which all directors must subscribe;

**" Finance Director "**

means the Chief Financial Officer of the Trust;

**"Financial Year"**

means:

(a) a period beginning with the date on which the Trust is authorised as an NHS Foundation Trust and ending with the next 31 March; and

(b) each successive period of twelve months beginning with 1 April;

**"Health Oversight and Scrutiny Committee"**

means a Committee whose functions are concerned with the arrangements for monitoring and improving the quality of health and social care services for which Sussex Partnership NHS Foundation Trust has responsibility;

**"Hospital"**

means those premises of the Sussex Partnership NHS Trust and all associated hospitals and facilities at which the Trust provides and/or manages the provision of goods and/or services;

**"Independent Regulator"**

means the regulator of NHS foundation trusts established under Part 2, Chapter 5 (section 31) of the NHS Act 2006 and known as Monitor;

**"Officer"**

means employee of the Trust or any other person holding a paid appointment or office with the Trust;

**"Secretary"**

means a person appointed to act independently of the board to provide advice on corporate governance issues to the board and the chair and monitor the Trust's compliance with the law, standing orders and guidance issued by the Independent Regulator;

**"Sex Offenders Order"**

means a Sexual Offences Preventative Order made under section 104 of the Sexual Offences Act 2003, or a Risk of Sexual Harm Order made under section 123 of the Sexual Offences Act 2003;

**"Sex Offenders Register"**

means the Register of Sex Offenders maintained under Part I of the Sex Offenders Act 1997 (as amended by the Sexual Offences Act 2003);

**"Trust"**

means Sussex Partnership NHS Foundation Trust;

**"Vice Chair"**

means the non-executive director appointed by the board to take on the chair's duties if the chair is absent for any reason;

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

## SECTION B – STANDING ORDERS

### 1. INTRODUCTION

#### 1.1 Statutory Framework

1.1.1 The Sussex Partnership NHS Foundation Trust (the “Trust”) becomes a Public Benefit Corporation on [ ] following authorisation by the Independent Regulator of NHS Foundation Trusts pursuant to the National Health Service Act 2006 (the “2006 Act”).

1.1.2 The principal place of business of the Trust, Trust Headquarters, Swandean, Arundel Road, Worthing, West Sussex, BN13 3EP.

1.1.3 The functions of the Trust are conferred by the regulatory framework. The regulatory framework requires the Board Directors of the Trust to adopt standing orders for the regulation of its proceedings and business.

1.1.4 As a Public Benefit Corporation the Trust has specific powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable. The Trust also has a common law duty as a bailee for patients’ property held by the Trust on behalf of patients.

1.1.5 The standing orders and standing financial instructions provide a comprehensive business framework. All executive and non-executive directors, and all members of staff, should be aware of the existence of these documents and, where necessary, be familiar with the detailed provisions.

1.1.6 The Trust shall deal with the Independent Regulator in an open and co-operative manner and shall promptly notify the Independent Regulator of anything relating to the Trust of which the Independent Regulator would reasonably expect prompt notice, including, without prejudice to the foregoing generality, any anticipated failure or anticipated prospect of failure on the part of the Trust to meet its obligations under its Authorisation or any financial or performance thresholds which The Independent Regulator may specify from time to time.

1.1.7 The chair, chief executive or any other person giving information to the public on behalf of the Trust shall ensure that they follow the principles set out by the Committee on Standards in Public Life (the Nolan Committee, now the Wicks Committee) and that they will adhere to the principles set out within the independent Commission’s Good Governance Standard for Public Service.

#### 1.2 Delegation of Powers

1.2.1 Subject to paragraph 3 of the Constitution, the Trust has powers to delegate and make arrangements for delegation. The standing orders set out the detail of these arrangements. Under the standing order relating to the arrangements for the exercise of Trust functions by delegation ( standing order 5) the Trust is given powers to "make arrangements for the exercise, on behalf of the Trust of any of their functions by a committee, sub-committee or joint committee appointed by virtue of standing order 4 or by an Officer of the Trust, in each case subject to such restrictions and conditions as the Trust thinks fit or as the Independent Regulator may direct”.

1.2.2 The board will separately agree a Scheme of Reservation

### 1.3 Integrated Governance

1.3.1 Boards of directors are now encouraged to move away from silo governance and develop integrated governance that will lead to good governance and to ensure that decision-making is informed by intelligent information covering the full range of corporate, financial, clinical, information and research governance. Guidance from the Department of Health on the move toward and implementation of integrated governance has been issued (see Integrated Governance Handbook 2006). Integrated governance will better enable the board to take a holistic view of the organisation and its capacity to meet its legal and statutory requirements and clinical, quality and financial objectives.

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

2.1 Composition of the directorship of the board of directors

In accordance with Constitution the board shall be:

2.1.1 The chair of the Trust (appointed by the council of governors);

2.1.2 5 non-executive directors (appointed by the council of governors);

2.1.3 1 non-executive director nominated by Brighton and Sussex Medical School and appointed by the council of governors

2.1.4 Up to 7 executive directors (but not exceeding the number of non-executive directors) including:

- Chief Executive
- Executive Director of Finance
- Executive Director of Nursing
- Executive Medical Director

2.1.5 The board will have a Secretary. The Secretary is able to attend board meetings but does not have voting rights

2.1.6 There is a clearly established division of responsibilities between the chair and the chief executive which should be set out in writing and agreed by the board

2.2 Appointment of the chair and directors of the Trust

2.2.1 Appointment of the chair and directors of the Trust shall be in accordance with the Constitution

2.3 Terms of Office of the chair and directors

2.3.1 The regulations setting out the period of tenure of office of the chair and directors and for the removal or disqualification of office of the chair and directors are contained in the Constitution.

## 2.4 Appointment and powers of Vice-Chair

2.4.1 At a general meeting, the board of directors may appoint one of the non-executive directors to be Vice Chair, for such a period not exceeding the remainder of the individual's term as a non-executive director as they specify on appointing them.

2.4.2 Any non-executive director so appointed may at any time resign from the office of Vice-Chair by giving notice in writing to the chair. The chair and directors may thereupon appoint another member as Vice-Chair in accordance with the provisions of standing order 2.4.1.

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

## 2.5 Appointment of senior independent director

2.5.1 The board (in consultation with the council of governors) may appoint any independent non-executive director as the senior independent director, for such period not exceeding the remainder of their term of office. The senior independent director shall perform the role set out in "The NHS Foundation Trust Code of Governance" (2006) issued by the Independent Regulator.

## 2.6 Joint Directors

2.6.1 Where more than one person is appointed jointly to a post those persons shall count for the purpose of standing order 2.1 as one person.

2.6.2 Where the office of a member of the board is shared jointly by more than one person:

- a) either or both of those persons may attend or take part in meetings of the board;
- b) if both are present at a meeting they should cast one vote if they agree;
- c) in the case of disagreements no vote should be cast;
- d) the presence of either or both of those persons should count as the presence of one person for the purposes of standing order 3.11 Quorum and standing order 2.1.

## 2.7 Role of Directors

The Board is collectively responsible for the exercise of the powers and performance of the Trust. Their role as directors of the board of directors will be to consider the key strategic and managerial issues facing the Trust in carrying out its statutory and other functions.

### 2.7.1 Executive directors

Executive directors shall exercise their authority within the terms of these standing orders and standing financial instructions.

#### 2.7.2 Chief executive

The chief executive shall be responsible for the overall performance of the executive functions of the Trust. He is the Accounting Officer for the Trust and shall be responsible for ensuring the discharge of obligations under financial directions and in line with the requirements of the NHS Foundation Trust Accounting Officer Memorandum April 2005.

#### 2.7.3 Finance Director

The Finance Director shall be responsible for the provision of financial advice to the Trust and to its directors and for the supervision of financial control and accounting systems. He shall be responsible along with the chief executive for ensuring the discharge of obligations under relevant financial directions.

#### 2.7.4 Non-executive directors

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

#### 2.7.5 Chair

The chair shall be responsible for the operation of the board and chair all board meetings when present. The chair has certain delegated executive powers. The chair must comply with the terms of appointment and with these standing orders.

The chair shall take responsibility for non-executive directors either directly or indirectly for their induction, their portfolios of interests and assignments, and their performance.

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

### 2.8 Corporate role of the board

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

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

2.8.3 The powers of the Trust established under statute shall be exercised by the board meeting in private session except as otherwise provided for in standing order No. 3.

#### 2.9 Lead roles for board directors

The chair will ensure that the designation of Lead roles or appointments of board directors as required by the Independent Regulator or as set out in any statutory or other guidance will be made in accordance with that guidance or statutory

requirement (e.g. appointing a lead board member with responsibilities for Infection Control or Child Protection Services etc.).

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

#### **3.1 Calling meetings**

3.1.1 Ordinary meetings of the board of directors shall be held at regular intervals at such times and places as the board may determine.

3.1.2 The chair of the Trust may call a meeting of the board of directors at any time.

3.1.3 One third or more directors of the board of directors may requisition a meeting in writing. If the chair refuses, or fails, to call a meeting within seven days of a requisition being presented, the directors signing the requisition may forthwith call a meeting.

#### **3.2 Notice of meetings and the business to be transacted**

3.2.1 Before each meeting of the board a written notice specifying the business proposed to be transacted shall be delivered to every member, or sent by post to the usual place of residence of each member, so as to be available to directors at least three Clear Days (meaning days of the week, not including Saturday, Sunday or a public holiday) before the meeting. The notice shall be signed by the chair or by an Officer authorised by the chair to sign on their behalf. Want of service of such a notice on any director shall not affect the validity of a meeting.

3.2.2 In the case of a meeting called by directors in default of the chair calling the meeting, the notice shall be signed by those directors.

3.2.3 No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under standing order 3.6.

3.2.4 A director desiring a matter to be included on an agenda shall make his request in writing to the chair at least 10 Clear Days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 10 days before a meeting may be included on the agenda at the discretion of the chair.

3.2.5 Before each public meeting of the board a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed at the Trust's principal offices at least three Clear Days before the meeting, (required by the Public Bodies (Admission to Meetings) Act 1960 Section 1 (4) (a)).

3.2.6 Board meetings will be held in camera, except for the Annual General Meeting which will be held in public

#### **3.3 Agenda and supporting papers**

3.3.1 The agenda will be sent to directors five Clear Days before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be dispatched no later than three Clear Days before the meeting, save in an emergency.

### 3.4 Petitions

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

### 3.5 Notice of motion

3.5.1 Subject to the provision of standing orders 3.7 'Motions: procedure at and during a meeting' and 3.8 'Motion to rescind a resolution', a member of the board wishing to move a motion shall send a written notice to the chief executive who will ensure that it is brought to the immediate attention of the chair.

3.5.2 The notice shall be delivered at least 10 Clear Days before the meeting. The chief executive shall include in the agenda for the meeting all notices so received that are in order and permissible under governing regulations. This standing order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

### 3.6 Emergency motions

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

### 3.7 Motions: procedure at and during a meeting

#### 3.7.1 Who may propose

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

#### 3.7.2 Contents of motions

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

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

#### 3.7.3 Amendments to motions

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

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

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

#### 3.7.4 Rights of reply to motions

##### Amendments

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

##### Substantive/original motion

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

#### 3.7.5 Withdrawing a motion

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

#### 3.7.6 Motions once under debate

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

- an amendment to the motion;
- the adjournment of the discussion, or the meeting;
- that the meeting proceed to the next business;
- that the question should be now put;
- the appointment of an 'ad hoc' committee to deal with a specific item of business;
- that a member/director be not further heard;

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

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

#### 3.8 Motion to rescind a resolution

- 3.8.1 Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the member who gives it and also the signature of three other directors, and before considering any such motion of which notice shall have been given, the board of directors may refer the matter to any appropriate Committee or the chief executive for recommendation.

3.8.2 When any such motion has been dealt with by the board of directors it shall not be competent for any director other than the chair to propose a motion to the same effect within six months. This standing order shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the chief executive.

### 3.9 Chair of meeting

3.9.1 At any meeting of the board of directors the chair, if present, shall preside. If the chair is absent from the meeting, the Vice-Chair, if present, shall preside.

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

### 3.10 Chair's ruling

The decision of the chair of the meeting on questions of order, relevancy and regularity (including procedure on handling motions) and his interpretation of the standing orders and standing financial instructions, at the meeting, shall be final.

### 3.11 Quorum

3.11.1 No business shall be transacted at a meeting unless at least one-third of the whole number of the chair and directors (including at least one person who is a director of the Trust and one who is a non-executive director) is present.

3.11.2 An Officer in attendance for an executive director but without formal acting up status may not count towards the quorum.

3.11.3 If the chair or member has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of a declaration of a conflict of interest (see standing order No.7) that person shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

### 3.12 Voting

3.12.1 Save as provided in standing orders 3.13 - Suspension of standing orders and 3.14 - Variation and Amendment of standing orders, every question put to a vote at a meeting shall be determined by a majority of the votes of directors present and voting on the question. In the case of an equal vote, the person presiding (i.e. the chair of the meeting) shall have a second, and casting vote.

3.12.2 At the discretion of the chair all questions put to the vote shall be determined by oral expression or by a show of hands, unless the chair directs otherwise, or it is proposed, seconded and carried that a vote be taken by paper ballot.

3.12.3 If at least one third of the directors present so request, the voting on any question may be recorded so as to show how each member present voted or did not vote (except when conducted by paper ballot).

3.12.4 If a director so requests, their vote shall be recorded by name.

- 3.12.5 In no circumstances may an absent member vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.12.6 An Officer who has been formally appointed to act up for an executive director during a period of incapacity or temporarily to fill an executive director vacancy shall be entitled to exercise the voting rights of the executive director.
- 3.12.7 An Officer attending the board of directors meeting to represent an executive director during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the executive director. An Officer's status when attending a meeting shall be recorded in the minutes.
- 3.12.8 For the voting rules relating to joint directors see standing order 2.6.

### 3.13 Suspension of standing orders

- 3.13.1 Except where this would contravene any statutory provision or any direction made by the Independent Regulator or the rules relating to the Quorum, standing order 3.11, any one or more of the standing orders may be suspended at any meeting, provided that at least two-thirds of the whole number of the directors of the board are present (including at least one member who is an executive director of the Trust and one member who is not) and that at least two-thirds of those directors present signify their agreement to such suspension. The reason for the suspension shall be recorded in the board of directors' minutes.
- 3.13.2 A separate record of matters discussed during the suspension of standing orders shall be made and shall be available to the chair and directors of the Trust.
- 3.13.3 No formal business may be transacted while standing orders are suspended.
- 3.13.4 The Audit Committee shall review every decision to suspend standing orders.

### 3.14 Variation and amendment of standing orders

These standing orders shall not be varied except in the following circumstances:

- upon a notice of motion under standing Order 3.5;
- upon a recommendation of the chair or chief executive included on the agenda for the meeting;
- that two thirds of the board directors are present at the meeting where the variation or amendment is being discussed, and that at least half of the Trust's non-executive directors vote in favour of the amendment;
- providing that any variation or amendment does not contravene a statutory provision or direction made by the Independent Regulator
- the views of the council of governors has been sought and considered and the Independent Regulator has approved the amendments

### 3.15 Record of attendance

The names of the chair and directors present at the meeting shall be recorded.

### 3.16 Minutes

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

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

### 3.17 Admission of public and the press

#### 3.17.1 Attendance at meetings

The public and representatives of the press shall be afforded facilities to attend all public events or public meetings of the board of directors, which will include the annual general meeting.

The public and representatives of the press shall be required to withdraw as follows:

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

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

Matters to be dealt with by the board of directors shall be confidential to the directors of the board.

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

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

Nothing in these standing orders shall be construed as permitting the introduction of recording, transmitting, video or similar apparatus into meetings of the Trust or Committee thereof. Such permission shall be granted only upon resolution of the Trust.

#### 3.17.4 Observers at Trust meetings

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

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

### 4.1 Appointment of Committees

Subject to such directions as may be given by the Independent Regulator, board of directors may appoint committees of the Trust.

The board of directors shall determine the directorship and terms of reference of Committees and sub-committees and shall if it requires to, receive and consider reports of such committees.

#### 4.2 Applicability of standing orders and standing financial instructions to Committees

The standing orders and standing financial instructions of the Trust, as far as they are applicable, shall as appropriate apply to meetings and any committees established by the board of directors. In which case the term “chair” is to be read as a reference to the chair of other Committees as the context permits, and the term “member” is to be read as a reference to a member of other Committees also as the context permits. (There is no requirement to hold meetings of Committees established by the board in public.)

#### 4.3 Terms of Reference

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 of directors shall decide. Such terms of reference shall have effect as if incorporated into the standing orders.

#### 4.4 Delegation of powers by Committees to sub-committees

Where Committees are authorised to establish sub-committees they may not delegate executive powers to the sub-committee unless expressly authorised by the board of directors.

#### 4.5 Approval of appointments to Committees

The chair of 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 as defined by the Independent Regulator for Foundation Trusts. 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. The chair of the board shall be entitled to attend all Committee meetings, with the exception of the Audit Committee.

#### 4.6 Appointments for statutory functions

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

#### 4.7 Committees established by the board of directors

The Committees and sub-committees, established by the board are:

##### 4.7.1 Audit Committee

- 4.7.2 The board will establish formal and transparent arrangements for considering how they should apply the financial reporting and internal control principles and for maintaining an appropriate relationship with the Trust's auditors. The Independent Regulator's publications *Audit Code for NHS Foundation Trusts* and the *Guide for Governors: Audit Code for NHS Foundation Trusts* gives further guidance.
- 4.7.3 The board must establish an Audit Committee composed of non-executive directors. Membership of the Committee is specified in the Committee's terms of reference. The board should satisfy itself that at least one member of the Audit Committee has recent and relevant financial experience.
- 4.7.4 The main role and responsibilities of the Audit Committee will be set out in written terms of reference including details of how it will:
- monitor the integrity of the financial statements of the Trust, and any formal announcements relating to the Trust's financial performance, reviewing significant financial reporting judgments contained in them;
  - review the Trust's internal financial controls and the Trust's internal control and risk management systems;
  - monitor and review the effectiveness of the Trust's internal audit function;
  - review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process, taking into consideration relevant UK professional and regulatory requirements;
  - develop and implement policy on the engagement of the external auditor to supply non-audit services, taking into account relevant ethical guidance regarding the provision of non-audit services by the external audit firm; and
  - report to the board, identifying any matters in respect of which it considers that action or improvement is needed and making recommendations as to the steps to be taken.

The terms of reference of the Audit Committee, including its role and the authority delegated to it by the board and by the council of governors, should be made publicly available. A separate section of the annual report should describe the work of the Committee in discharging those responsibilities.

The Audit Committee should review arrangements by which staff of the Trust may raise, in confidence, concerns about possible improprieties in matters of financial reporting and control, clinical quality, patient safety or other matters. The Audit Committee's objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action.

The board should take the lead in agreeing with the Audit Committee the criteria for appointing, reappointing and removing auditors. The Audit Committee should make recommendations to the board, in relation to the appointment, re-appointment and removal of the external auditor and approve the remuneration and terms of engagement of the external auditor. If the board does not accept the Audit Committee's recommendation, the board should include in the annual report a statement from the Audit Committee explaining the recommendation and should set out reasons why the board has taken a different position.

When the board ends an auditor's appointment in disputed circumstances, the chair should write to the Independent Regulator informing it of the reasons behind the decision.

The annual report should explain to members how, if the auditor provides non-audit services, auditor objectivity and independence is safeguarded.

#### 4.7.5 Appointments and Remuneration Committee

In line with the requirements of the NHS Foundation Trust Code of Governance the directors must establish a remuneration committee composed of non-executive directors which will include at least three non-executive directors. The Appointments and Remuneration Committee will make available its terms of reference, explaining its role and the authority delegated to it by the board of directors. Where remuneration consultants are appointed a statement should be made available of whether they have any other connection with the Trust.

The Appointments and Remuneration Committee has delegated authority for setting remuneration for all executive directors, including pension rights and any compensation payments. The Committee will recommend and monitor the level and structure of remuneration for senior management.

The council of governors is responsible for setting the remuneration of non-executive directors and the chair. The council of governors will consult external professional advisors to market-test the remuneration levels of the chair and other non-executive directors at least once every three years and when they intend to make a large change to the remuneration of a non-executive director

#### 4.7.6 Charitable Funds Committee

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

The provisions of this standing order must be read in conjunction with standing order 2.8 and standing financial instructions 19.

Membership of the Committee is specified in the Committee's terms of reference

#### 4.7.7 Health and Social Care Governance Committee

The Committee will consider the arrangements for monitoring and improving the quality and health and social care services for which Sussex Partnership NHS Foundation Trust is responsible. For the purposes of these standing orders, that Committee will be referred to as the Health and Social Care Governance Committee, although the name may be amended in line with national trends or best practice.

Membership of the Committee is specified in the Committee's terms of reference

#### 4.7.8 Mental Health Act Committee

Membership of the Committee is specified in the Committee's terms of reference

The Committee will ensure that the Trust's statutory responsibilities under the Mental Health Act 1983 (and any subsequent amendments) are met and to review and audit the Trust's policies and procedures relating to the Mental Health Act and the Mental Capacity Act

#### 4.7.9 Finance and Investment Committee

Membership of the Committee is specified in the Committee's terms of reference

The Committee will conduct objective board level review of financial and investment policies and financial performance issues

#### 4.7.10 Other Committees

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

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

#### 5.1 Delegation of functions to Committees, Officers or other bodies

5.1.1 Subject to the Constitution and terms of authorisation and such directions as may be given by the Independent Regulator, the board may make arrangements for the exercise, on behalf of the board, of any of its functions by a Committee, sub-committee appointed by virtue of standing order 4, or by an Officer of the Trust, or by another third party body below, in each case subject to such restrictions and conditions as the board thinks fit.

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

#### 5.2 Emergency powers and urgent decisions

The powers which the board has reserved to itself within these standing orders, standing order 2.9 may in emergency or for an urgent decision 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 of directors for formal ratification.

#### 5.3 Delegation to Committees

The board shall agree from time to time to the delegation of executive powers to be exercised by other committees, or sub-committees, which it has formally constituted. The constitution and terms of reference of these Committees, or sub-committees, and their specific executive powers shall be approved by the board.

#### 5.4 Delegation to Officers

5.4.1 Those functions of the Trust which have not been retained as reserved by the Board or delegated to other Committee or sub-committee or joint-committee shall be exercised on behalf of the Trust by the chief executive. The chief executive shall

determine which functions he will perform personally and shall nominate officers to undertake the remaining functions for which he will still retain accountability to the Board.

5.4.2 The chief executive shall prepare a Scheme of Reservation and Delegation of Powers identifying his/her proposals which shall be considered and approved by the board. The chief executive may periodically propose amendment to the Scheme of Reservation and Delegation of Powers which shall be considered and approved by the board.

5.4.3 Nothing in the Scheme of Reservation and Delegation of Powers 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 requirements or any requirement of the Independent Regulator. Outside these statutory requirements the roles of the Finance Director shall be accountable to the chief executive for operational matters.

5.6 Duty to report non-compliance with standing orders and standing financial instructions

The chief executive shall be advised of any breaches of standing orders. These shall be investigated by an officer nominated by him/her. See also standing order 10.

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

6.1 Policy statements: general principles

The board of directors will from time to time agree and approve policy statements/procedures which will apply to all or specific groups of staff employed by the Trust. The decisions to approve such policies and procedures will be recorded in an appropriate board of directors' minute and will be deemed where appropriate to be an integral part of the Trust's standing orders and standing financial instructions.

6.2 Specific policy statements

Notwithstanding the application of standing order 6.1 above, these standing orders and standing financial instructions must be read in conjunction with the following policy statements:

- the Anti-fraud and Corruption Policy Statement and Response Plan;
- the Staff Disciplinary and Appeals Procedures adopted by the Trust, both of which shall have effect as if incorporated in these standing orders.
- the Scheme of Reservation and Delegation of Powers

6.3 Standing financial instructions

Standing financial instructions adopted by the Board of Directors in accordance with the financial regulations shall have effect as if incorporated in these standing orders.

6.4 Specific guidance

Notwithstanding the application of Standing Order 6.1 above, these Standing orders and standing financial instructions must be read in conjunction with the following guidance and any other issued by the Independent Regulator for Foundation Trusts:

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

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

### 7.1 Board of Directors - conflicts of interest of directors

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

### 7.1.2 Interests which are relevant and material

Interests that should be regarded as "relevant and material" are:

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

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

All Board members, senior managers and senior clinical staff must complete a "Declaration of Interests" form on an annual basis

### 7.1.3 Advice on interests

If Board directors have any doubt about the relevance of an interest, this should be discussed with the Chair of the Board or with 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.

#### 7.1.4 Recording of interests in Board of Directors minutes

At the time Board directors' interests are declared, they should be recorded in the Board of Directors' minutes.

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

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

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

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

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

### 7.2 Register of interests

7.2.1 The chief executive will ensure that a register of interests is established to record formally declarations of interests of Board or Committee directors. In particular the register will include details of all directorships and other relevant and material interests, as defined in Standing Order 7.1.2, which have been declared by both executive and non-executive directors.

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

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

### 7.3 Exclusion of Chair and directors in proceedings on account of pecuniary interest

#### 7.3.1 Definition of terms used in interpreting 'pecuniary' interest

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

- "spouse" shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse);

- "contract" shall include any proposed contract or other course of dealing.
- "pecuniary interest"

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

- a) he, or a nominee of his, is a member of a company or other body (not being a public body), with which the contract is made, or to be made or which has a direct pecuniary interest in the same, or
- b) he is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.

- Exception to Pecuniary interests

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

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

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

### 7.3.2 Exclusion in proceedings of the Board of Directors

- a) Subject to the following provisions of this Standing Order, if the Chair or a member of the Board of Directors has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Board of Directors at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- b) The Board of Directors may exclude the Chair or a member of the Board from a meeting of the Board while any contract, proposed contract or other matter in which he has a pecuniary interest is under consideration.
- c) Any remuneration, compensation or allowance payable to the Chair or a member by virtue of paragraph 11 of Schedule 5A to the National Health Service Act 1977 (pay and allowances) shall not be treated as a pecuniary interest for the purpose of this Standing Order.

- d) This Standing Order applies to a Committee and to a sub-committee or sub-committee as it applies to the Board and applies to a member of any such Committee or sub-committee (whether or not he is also a member of the Board) as it applies to a member of the Board.

#### 7.4 Standards of business conduct

##### 7.4.1 Trust policy and national guidance

All Trust staff and directors of the Board must comply with the Trust's Anti-Fraud Corruption Policy statement response, the national guidance contained in HSG(93)5 on 'Standards of Business Conduct for NHS staff' (see Standing Order 6.2), the Code of Conduct for NHS Managers (2002).

##### 7.4.2 Interest of Officers in contracts

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

##### 7.4.3 Canvassing of and recommendations by directors in relation to appointments

- a) 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 the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.
- b) Directors of the Trust shall not solicit for any person any appointment under the Trust or recommend any person for such appointment; but this paragraph of this Standing Order shall not preclude a member from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

##### 7.4.4 Relatives of Directors or Officers

- a) Candidates for any staff appointment under the Trust shall, when making an application, disclose in writing to the Board 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.
- b) The Chair and every director and Officer of the Trust shall disclose to the Board of Directors any relationship between himself and a candidate of

whose candidature that member or officer is aware. It shall be the duty of the chief executive to report to the board of directors any such disclosure made.

- c) On appointment, directors (and prior to acceptance of an appointment in the case of executive directors) should disclose to the Trust whether they are related to any other member or holder of any office under the Trust.
- d) Where the relationship to a member of the Trust is disclosed, the Standing Order headed 'Duties and Obligations of Board Directors and senior managers (Standing Order 7) shall apply.

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

### **8.1 Custody of seal**

The Trust shall maintain a register of sealed documents which can be viewed by members of the public on request. The common seal of the Trust shall be kept by the chief executive or a nominated manager by him in a secure place.

### **8.2 Sealing of documents**

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

### **8.3 Register of sealing**

The chief executive shall keep a register in which he, or another manager of the Authority authorised by him, shall enter a record of the sealing of every document. A report of all sealings shall be made to the Board of Directors quarterly.

### **8.4 Signature of documents**

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

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

## **9. MISCELLANEOUS (see overlap with SFI No. 12)**

### **9.1 Joint finance arrangements**

The Board may confirm contracts to purchase from a voluntary organisation or a local authority using its powers under Section 46 and Section 47 of the NHS Act 2006. The Board may confirm contracts to transfer money from the NHS to the voluntary sector or the health related functions of local authorities where such a transfer is to fund services to improve the health of the local population more effectively than equivalent

expenditure on NHS services, using its powers under Section 75 of the NHS Act 2006.

## 9.2 Dispute resolution procedure

In the event of a dispute between the council of governors and board of directors:

- in the first instance the chair on the advice of the Secretary, and such other advice as the chair may see fit to obtain, shall seek to resolve the dispute
- if the chair is unable to resolve the dispute he shall appoint a special committee, comprising equal numbers of directors and governors, to consider the circumstances and to make recommendations to the council of governors and board of directors with a view to resolving the dispute.
- if the recommendations (if any), of the special committee are unsuccessful in resolving the dispute, the chair may refer the dispute back to the board of directors who shall make the final decision.

## 10. BREACHES OF STANDING ORDERS

10.1 The chief executive shall be advised of any breaches of standing orders. These shall be investigated by an officer nominated by him.

10.2 The investigating officer shall carry out his investigation in accordance with relevant Trust policies and procedures for such investigations

10.3 The investigation shall seek to determine:

- the circumstances of the breach and ascertain, as far as possible, why the breach occurred
- possible implications for the Trust and actions that can be taken to mitigate these
- recommendations to prevent the breach happening again

10.4 The investigating officer will report back to the chief executive (or to an officer nominated by him). Where, after investigation a breach is determined to be non-material then a report will be made to the Audit Committee for information, for all other breaches, a formal report will be made to the board of directors for action.

10.5 The determination of the materiality of the breach will be determined by the chief executive (or the officer nominated by him) using the following criteria:

- the breach was trifling; and
- the outcome would have been the same had standing orders not been breached; and
- the breach does not have any adverse financial, legal or public opinion implications

10.6 Nothing in this section shall be construed as preventing a member of staff from making a disclosure under the Public Interest Disclosure Act.

10.7 The Trust policy on Raising Matters of Concern (Whistleblowing) will apply to any staff reporting a breach of standing orders

**AUTHORISATION OF SUSSEX PARTNERSHIP NHS FOUNDATION TRUST**

**Schedule 2**

Mandatory Goods and Services

Schedule 2 (indicative)

Mandatory Goods and Services for 08/09

Code	Specialty	Court diversion (1)	Community Forensic (1)	Low Secure (1)	Medium Secure (1)	Specialist (2)	Specialist (3)	Rehabilitation - Primary Care Inpatient (1)	Primary Care (2)	Psychiatric Liaison (1)	Other 1 (1)	Crisis resolution team (1)	Tier 1 (1)	PICU (1)	Day Care (1)	Early Intervention team (1)	Assertive Outreach Team (1)	CMHT - caseload (1)	Rehabilitation - Inpatient (2)	Other 2 (1)	Specialist (1)	Inpatient - functional (1)	Inpatient - organic (1)	
		Community Contact	Community Contact	Occupied Bed Days	Community Contact	Community Contact	Community Contact	Community Contact	Community Contact	Occupied Bed Days	Occupied Bed Days	Attendances	Community Contact	Community Contact	Community Contact	Occupied Bed Days	Community Contact	Occupied Bed Days	Occupied Bed Days	Occupied Bed Days				
700	Learning disability (previously known as mental handicap)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
710	Mental illness	2,014	7,213	11,824	8,579	5,321	7,813	5,279	20,349	10,855	6,457	14,172	96,993	80,669	6,837	78,568	10,059	37,383	255,275	34,344	13,888	18,533	-	-
711	Child and adolescent psychiatry	-	-	-	-	-	-	-	1,963	-	-	-	-	3,958	-	1,167	-	-	55,279	-	-	-	-	-
712	Forensic psychiatry	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
713	Psychotherapy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
715	Old age psychiatry	-	-	-	-	-	-	-	-	2,475	-	-	-	-	-	24,665	-	-	122,180	-	-	-	27,713	39,205
420	Other	-	-	-	-	-	-	-	-	-	-	-	2,635	-	-	-	-	-	44,245	-	-	-	-	-
<b>Total</b>		<b>2,014</b>	<b>7,213</b>	<b>11,824</b>	<b>8,579</b>	<b>5,321</b>	<b>7,813</b>	<b>5,279</b>	<b>22,312</b>	<b>10,855</b>	<b>8,932</b>	<b>14,172</b>	<b>96,993</b>	<b>87,262</b>	<b>6,837</b>	<b>104,400</b>	<b>10,059</b>	<b>37,383</b>	<b>508,126</b>	<b>34,344</b>	<b>13,888</b>	<b>18,533</b>	<b>27,713</b>	<b>39,205</b>

**AUTHORISATION OF SUSSEX PARTNERSHIP NHS FOUNDATION TRUST**

**Schedule 3**

Mandatory Education and Training



**AUTHORISATION OF SUSSEX PARTNERSHIP NHS FOUNDATION TRUST**

**Schedule 4**

Private Health Care

## AUTHORISATION OF SUSSEX PARTNERSHIP NHS FOUNDATION TRUST

### PRIVATE HEALTH CARE

In 2006/07 the proportion of the total patient income derived from private health charges was 0.0%

Pursuant to section 44 of the Act and Condition 10 of this Authorisation the proportion of total income of the Trust in any financial year derived from private charges shall not be greater than 0.0%<sup>1</sup>.

#### DEFINITION:

Private patient income

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Total patient  
related income

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<sup>1</sup> The proportion of the total patient income derived from private health charges was nil in the base year, 2006/07. Accordingly, the proportion of total income of the Trust in any financial year derived from private charges shall not be greater than 0.0%.

**AUTHORISATION OF SUSSEX PARTNERSHIP NHS FOUNDATION TRUST**

**Schedule 5**

Limit on Borrowing

## **AUTHORISATION OF SUSSEX PARTNERSHIP NHS FOUNDATION TRUST**

### **PRUDENTIAL BORROWING LIMIT**

Pursuant to section 46 of the Act, the Prudential Borrowing Limit ("PBL") for the year 2008/09 is the sum of the following:

- (i) Maximum cumulative long term borrowing: £51.6 million and
- (ii) Approved working capital facility: not to exceed £16.0 million

# **AUTHORISATION OF SUSSEX PARTNERSHIP NHS FOUNDATION TRUST**

## **Schedule 6**

### **Information**

Full details of the information which the Trust shall disclose to Monitor directly and to any third parties as may be specified by the Secretary of State and as may be varied from time to time are set out on Monitor's website at [www.monitor-nhsft.gov.uk](http://www.monitor-nhsft.gov.uk).