Vision | Openness | Integrity | Compassion | Excellence

NHS
Bolton
NHS Foundation Trust

Bolton NHS Foundation Trust Constitution

May 2023

... for a better Bolton


NHS
Bolton
NHS Foundation Trust

Version Control Document		
Date	**Version Ref**	**Amendments**
Dec 2025	10.1	• Updated following amendment of quorum requirements for the Council of Governors Standing Orders (Annex 6)
April 2023	10	• Update to reflect Health and Care Act 2022 including changes to Code of Governance for NHS Providers
January 2021	9	• Major review
October 2016	8	• Change to areas of the public constituency • Reduction in number of governors from 39 to 35 • Change references to the regulator Monitor to NHS Improvement • Update to model election rules to include electronic voting
November 2015	7	• Membership age reduced to 14
Nov 2013	6	• Addition of version control section • Removal of reference to PCT • Change CRB to DBS • Removal of clauses to establish initial COG and Board • Removal of reference to the Audit commission • Monitor panel • Approval of significant transactions • Change to Constitution approval
Sept 2012	5	• The continuation of the body corporate known as Monitor; • Change from the 'Board of Governors' to the 'Council of Governors'; • Requirement for the principal purpose (i.e. provision of goods and services for the health service in England) to be stated in the constitution; • Introduction of the new legal duty to ensure that income of NHS funded goods and services is greater than income from other sources; • Introduction of additional oversight and scrutiny by the Council of Governors over activities generating non-NHS income; • Replacement of HM Treasury with Secretary of State as regards giving guidance over FT accounts
2011	4	• Name changed to Bolton NHS Foundation Trust • Reduced number of out of area governors from four to three
2010	3	• Change to allow flexibility to the number of Directors • Change to limit the number of elections to one per year • temporary addition of Community staff governor
2009	2	• Addition of a Governor to represent LINk • Change to quorum requirement for AMM
2008	1	• approved on authorisation 1st October 2008

BOLTON NHS FOUNDATION TRUST CONSTITUTION

CONTENTS

	Definitions and Interpretation	5
1.	Name	8
2.	Principal purpose	8
3.	Powers	8
4.	Membership and constituencies	9
5.	Application for membership	9
6.	Public constituencies	10
7.	Staff constituency	10
8.	Restriction on membership	11
8A	Annual Members' Meeting	12
9.	Council of Governors – composition	12
10.	Council of Governors – election of governors	12
11.	Council of Governors – tenure	13
12.	Council of Governors – disqualification and removal	14
12A.	Council of Governors – duties of Governors	14
13.	Council of Governors – meeting of governors	14
14.	Council of Governors – standing orders	15
15.	Council of Governors – conflicts of interest of governors	15
16.	Council of Governors – travel expenses	15
17.	Council of Governors – referral to the panel...	15
18.	Council of Governors – further provisions	16
19	Board of Directors – composition	16
19A	Board of Directors – general duty	16
20.	Board of Directors – qualification for appointment as Chair or another non-executive director	16
21.	Board of Directors – appointment and removal of Chair and/or other non-executive directors	17
22.	Board of Directors – appointment of deputy Chair	18
23.	Board of Directors – appointment and removal of the Chief Executive and other executive directors	18
24.	Board of Directors – disqualification	18

24A	Board of Directors – meetings	20
25.	Board of Directors – standing orders	20
26.	Board of Directors – conflicts of interest of directors	20
27.	Board of Directors – remuneration and terms of office	21
28.	Registers	22
29.	Admission to and removal from the registers	23
30.	Registers – inspection and copies	23
31.	Documents available for public inspection	23
32.	Auditor	25
33.	Audit committee	25
34.	Accounts	25
35.	Annual report and forward plans	26
36	Meeting of Council of Governors to consider annual accounts and reports	26
37.	Instruments	27
37A.	Amendments to the Constitution	27
38.	Indemnity	28
39.	Not used	29
40.	Mergers etc and significant transactions	30
40	Validity of actions	30

ANNEX 1	THE PUBLIC CONSTITUENCIES	33
ANNEX 2	THE STAFF CONSTITUENCY	34
ANNEX 3	COMPOSITION OF COUNCIL OF GOVERNORS	35
ANNEX 4	THE MODEL RULES FOR ELECTIONS	36
ANNEX 5	ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS	37
ANNEX 6	STANDING ORDERS – COUNCIL OF GOVERNORS	45
ANNEX 7	STANDING ORDERS – BOARD OF DIRECTORS	51
ANNEX 8	MEMBERSHIP AND MEMBERS MEETINGS	72
ANNEX 9	FURTHER PROVISIONS	77

DEFINITIONS

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.

- the **2006 Act** is the National Health Service Act 2006.
- the **2012 Act** is the Health and Social Care Act 2012.
- the **2022 Act** is the Health and Care Act 2022

In this Constitution:

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

Appointed Governor means the Local Authority Governors and the Partnership Governors

Authorisation Date means the date that the Trust's initial authorisation as an NHS Foundation Trust took effect.

Board of Directors means the Board of Directors as constituted in accordance with this Constitution and "Board" shall be construed accordingly.

Chair is the Chair of the Board of Directors appointed in accordance with paragraph 21 of this Constitution, interchangeable with the term Chairman.

Chief Executive means the Chief Executive and Accounting Officer of the Trust appointed in accordance with paragraph 23 of this Constitution.

Code of Governance for NHS Provider Trusts means the Code of Governance for NHS Provider Trusts published by NHS England in October 2022 or such similar or further guidance as NHS England may publish from time to time.

Constituencies means the Public Constituencies and the Staff Constituency.

Constitution means this Constitution of Bolton NHS Foundation Trust and all annexes to it.

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

Financial Year means: (a) the period beginning with the date on which the Trust is authorised as a Foundation Trust and ending with the next 31 March; and (b) each successive period of twelve (12) months beginning with 1 April.

ICB means an integrated care board established under Chapter A3 of Part 2 of the 2006 Act.

the **Independence Criteria** means those criteria set out at paragraph 20.4 below

Local Authority Governor means a governor appointed by one or more local authorities in accordance with the provisions of this Constitution and as specified in Annex 3.

the **MHA** means the Mental Health Act 1983.

Model Rules for Elections means the model form rules for the conduct of elections published from time to time by NHS Providers.

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

Partnership Governor means a governor appointed by a Partnership Organisation.

Partnership Organisation means those organisations that may appoint Partnership Governors as listed at paragraph 1.4 of **Annex 3**

Public Constituency means all those individuals who live in an area specified as an area for a public constituency in **Annex 1.**

Public Governor means a member of the Council of Governor elected by the members of a Public Constituency.

Secretary or Trust Secretary means the secretary of the Trust or any other person appointed by the Trust pursuant to paragraph 2.1 of Annex 7 to perform the duties of the secretary

Secretary of State means the Secretary of State for Health and Social Care.

Staff Constituency means that part of the Trust's membership consisting of the staff of the Trust and other persons as more particularly provided for in paragraph 7 of this Constitution and which is divided into the Staff Classes as specified in Annex 2;

Staff Governor means a member of the Council of Governor elected by the members of one of the classes of the Staff Constituency.

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

Trust means Bolton NHS Foundation Trust.

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

Save as otherwise permitted by law, the Chair shall be the final authority for all purposes on the interpretation of this constitution (on which they should be advised by the Trust Secretary).

1. Name

The name of the foundation Trust is Bolton NHS Foundation Trust (the Trust).

2. Principal purpose

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

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

2.3. The Trust may provide goods and services for any purposes related to –

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

2.3.2. the promotion and protection of public health.

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

3. Powers

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

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

3.5. Subject to paragraph 3.6 below and having regard to any guidance published by NHS England, in making a decision about the exercise of its functions, the Trust shall have regard to all likely effects of the decision in relation to:

3.5.1. the health and wellbeing of the people of England;

3.5.2. the quality of services provided to individuals by relevant bodies, or in pursuance of arrangements made by relevant bodies, for or in connection with the prevention, diagnosis or treatment of illness, as part of the health service in England; and

3.5.3. efficiency and sustainability in relation to the use of resources by relevant bodies for the purposes of the health service in England.

3.6. The requirement to have regard to the wider effect of its decisions set out at paragraph 3.4 shall not apply to decisions about services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness.

3.7. In paragraph 3.4 'relevant bodies' has the meaning set out in paragraph 63A(4) of the 2006 Act.

3.8. The Trust may do anything which appears to it to be necessary or expedient for the purposes of or in connection with its functions, within the terms of its Authorisation and Provider Licence.

3.9. In exercising its functions, the Trust shall have regard to the need to contribute towards compliance with the UK net zero emissions target set out at section 1 of the Climate Change Act 2008 and the environmental targets set out at section 5 of the Environment Act 2021, and to adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008. In doing so, the Trust shall also have regard to guidance published by NHS England.

4. 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. the Public Constituencies

4.1.2. the Staff Constituency

4.2. The members of the Trust are those individuals whose names are entered in the register of members.

4.3. Members may attend and participate at members meetings, vote in elections for, and stand for election to the Council of Governors, and take such other part in the affairs of the Trust as is provided in this constitution.

4.4. The Trust shall hold members meetings in accordance with the provisions of Annex 8

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.

5.2. Subject to this constitution, membership is open to any individual who is entitled under this constitution to be a member of one of the Public Constituencies or one of the classes of the Staff Constituency, and who (unless they are a member

of one of the classes of the Staff Constituency) completes a membership application form in whatever form the Secretary specifies.

6. Public Constituencies

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 a Public Constituency.

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

7. Staff Constituency

7.1. Subject to paragraph 7.3 below an individual who is employed by the Trust under a contract of employment (which for the avoidance of doubt includes full and part time contracts of employment) with the Trust may become or continue as a member of the Trust provided:

7.1.1. they are employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or

7.1.2. they have been continuously employed by the Trust under a contract of employment for at least 12 months.

7.2. Subject to paragraph 7.3 below individuals who exercise functions for the purposes of the Trust, otherwise than under a contract of employment with the Trust, may become or continue as members of the staff constituency provided such individuals have exercised these functions continuously for a period of at least 12 months.

7.3. For the avoidance of doubt, the eligibility to be a member of the Staff Constituency described at paragraph 7.2 above does not include those who assist or provide services to the Trust on a voluntary basis.

7.4. Those individuals who are eligible for membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.

7.5. The Staff Constituency shall be divided into four (4) descriptions of individuals who are eligible for membership of the Staff Constituency, each description of individuals being specified within Annex 2 and being referred to as a class within the Staff Constituency.

7.6. The Trust Secretary shall make a final decision about the class of which an individual is eligible to be a member.

7.7. The minimum number of members in each class of the Staff Constituency is specified in Annex 2.

Automatic membership by default – staff

7.8. An individual who is:

7.8.1. eligible to become a member of the Staff Constituency, and

7.8.2. invited by the Trust to become a member of the Staff Constituency and a member of the appropriate class within the Staff Constituency,

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

8. Restriction on membership

8.1. An individual who is a member of a constituency, or of a class within a constituency, may not while membership of that constituency or class continues, be a member of any other constituency or class of the Trust.

8.2. An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any constituency other than the Staff Constituency.

8.3. A member of any constituency must be fourteen (14) years of age or over

8.4. An individual who:

8.4.1. has threatened, harassed, harmed or abused staff, patients and/or visitors of the Trust or the Predecessor Trust; or

8.4.2. has been a vexatious complainant. For the purposes of this paragraph a vexatious complainant is an individual who is found by the Trust (applying the relevant Trust policy) to have abused or used inappropriately the Trust's or the Predecessor Trust's complaints procedure

shall be refused membership of the Trust or where an existing member shall have their membership of the Trust withdrawn.

8.5. Further provisions as to the circumstances in which an individual may not become or continue as a member of the Trust are set out in Annex 8.

8A Annual Members' Meeting

8A.1 The Trust shall hold an annual members' meeting. The annual members' meeting shall be open to the public.

8A.2 Further provisions for the annual members' meeting are set out in Annex 8.

9. Council of Governors – composition

9.1. The Trust is to have a Council of Governors, which shall comprise both elected and appointed governors.

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

9.3. The members of the Council of Governors, other than the appointed members, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency. The number of governors to be elected by each constituency, or, where appropriate, by each class of each constituency, is specified in Annex 3.

10. Council of Governors – election of governors

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 on the basis of [single transferable vote (STV)] polling and the Model Rules for Elections shall be construed accordingly

10.1. The Model Rules for Elections, as published from time to time by NHS Providers, form part of this constitution. The Model Rules for Elections current at the date of their adoption under this constitution are attached at Annex 4.

10.2. A subsequent variation of the Model Rules for Elections by the Department of Health and Social Care or NHS Providers or a successor body shall not constitute a variation of the terms of this constitution. For the avoidance of doubt, the Trust cannot amend the Model Rules for Elections.

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

10.4. A member of the Public Constituency may not vote at an election for a Public Governor unless within twenty-one (21) days before they vote they have made a declaration in the form specified by the Secretary that they are qualified to vote as a member of the Public Constituency. It is an offence to knowingly or recklessly make a declaration which is false in a material particular.

11. Council of Governors - tenure

11.1. An elected governor may hold office for a period of up to 3 years following each election that resulted in their election as a governor.

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

11.3. An elected governor shall be eligible for re-election at the end of their term.

11.4. An elected governor may not, if re-elected for more than a single term of office hold office for more than nine (9) consecutive years in total.

11.5. The Trust shall conduct annual elections for elected governors during each year (being a period of 12 months commencing on an anniversary of the Authorisation Date) in respect of each governor whose term of office shall expire at the end of that year, with any governors elected pursuant to such an annual election taking office on the next anniversary of the Authorisation Date following such election.

11.6. An Appointed Governor shall hold office for a period up to three years.

11.7. An Appointed Governor shall be eligible for re-appointment after the end of that period; subject to paragraph 11.8 below;

11.8. An Appointed Governor may not hold office for longer than nine consecutive years.

11.9. An Appointed Governor shall cease to hold office if the appointing organisation terminates their appointment or if they are disqualified for any of the reasons set out in this Constitution.

11.10. For the purposes of this paragraph 11 years of office are consecutive unless there is a break of at least 12 months between them.

12. Council of Governors – disqualification and removal

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

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

12.1.2. A person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986);

12.1.3. a person who has made a composition or arrangement with, or granted a Trust deed for, their creditors and has not been discharged in respect of it;

12.1.4. 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 them.

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

12.3. Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors are set out in Annex 5.

12A Council of Governors – duties of Governors

12A.1 The general duties of the Council of Governors are:

12A.1.1 to hold the non-executive directors individually and collectively to account for the performance of the Board of Directors; and

12A.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public.

12A.2 The Trust must take steps to secure that the Council of Governors are equipped with the skills and knowledge they require in their capacity as such.

12A.3Further provision as to the roles and responsibilities of the Council of Governors is set out in Annex 5.

13. Council of Governors – meetings of governors

13.1. The Chair of the Trust (i.e. the Chair of the Board of Directors, appointed in accordance with the provisions of paragraph 20.1 or paragraph 21.1 below) or, in their absence the Deputy Chair (appointed in accordance with the provisions of paragraph 22 below), shall preside at meetings of the Council of Governors.

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

13.3. the Council of Governors may require one or more of the directors to attend a meeting for the purposes of obtaining information about the Trust's performance of its functions or the directors' performance of their duties (and deciding whether to propose a vote on the Trust's or directors' performance),

13.4. The Chair may exclude any member of the public from a meeting of the Council of Governors if they are interfering with or preventing the proper conduct of the meeting.

14. Council of Governors – standing orders

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

15. Council of Governors - conflicts of interest of governors

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

15.2. Further provisions on disclosure of interests are listed in Annex 6.

16. Council of Governors – travel expenses

The Trust may pay travelling and other expenses to members of the Council of Governors as determined by the Trust.

17. Council of Governors – referral to the Panel

17.1. In this paragraph, the Panel means a panel of persons appointed by NHS England to which a governor of an NHS foundation Trust may refer a question as to whether the Trust has failed or is failing —

17.1.1. to act in accordance with its constitution, or

17.1.2. to act in accordance with provision made by or under Chapter 5 of the 2006 Act.

17.2. A governor may refer a question to the Panel only if more than half of the members of the Council of Governors voting approve the referral.

18. Council of Governors – further provisions

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

19. Board of Directors – composition

19.1. The Trust is to have a Board of Directors to manage the business of the Trust and to exercise all powers of the Trust (subject to any contrary provisions in the 2006 Act and/or this constitution) 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. a minimum of five (5) non-executive directors; and

19.2.3. a minimum of five (5) executive directors.

19.2.4. The number of executive directors will not exceed the number of non-executive directors excluding the Chair.

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 a registered midwife.

19A Board of Directors – general duty

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

20. Board of Directors – qualification for appointment as Chair or another non-executive director

20.1. A person may be appointed as the Chair or another non-executive director only if – they are a member of the Public Constituency, and they are not disqualified by virtue of paragraph 24 below.

20.2. The Chair must on appointment for each and every term of office meet the Independence Criteria and may not have previously served as the chief executive of the Trust.

20.3. Every other non-executive director must on appointment and throughout their term of office meet the Independence Criteria.

20.4. The Independence Criteria are that the Chair on appointment for each and every term of office and every other non-executive director on appointment and throughout their term of office should;

20.4.1. not have been an employee of the Trust within the last five (5) years;

20.4.2. not have, or have had within the last three (3) years a material interest in any matter within the meaning of paragraph 5.3 of Annex 7;

20.4.3. not receive or have received additional remuneration from the Trust (apart from a director's fee), participate in the Trust's performance-related pay scheme (if any) or be or have been a member of the Trust's pension scheme;

20.4.4. not have any close family tie with any director, senior employee or professional advisor to the Trust;

20.4.5. not hold cross-directorships or have any significant business link with any other director of the Trust including through any involvement in any company or body; or

20.4.6. not have served on the Trust Board of Directors for more than nine (9) years from the date of their first appointment.

21. Board of Directors – appointment and removal of the Chair and/or 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/or the other non-executive directors.

21.2. Appointment of the Chair or of a non-executive director shall require the approval of a majority of the members of the Council of Governors.

21.3. Removal of the Chair or any other non-executive director shall require the approval of three-quarters of the members of the Council of Governors.

21.4. The procedures for the appointment and removal of the Chair and other Non-Executive Directors are set out in Annex 7.

22. Board of Directors – appointment of deputy Chair

The Council of Governors at a general meeting of the Council of Governors shall appoint one of the non-executive directors as a Deputy Chair. If the Chair is unable to discharge their office as Chair of the Trust, the Deputy Chair shall be acting Chair of the Trust.

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

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

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

23.3. A committee consisting of the Chair, the Chief Executive and the other non-executive directors shall appoint or remove the other executive directors. The Chair shall act as Chair of such committee.

24. Board of Directors – disqualification

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

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

24.1A A person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986);

24.2. a person who has made a composition or arrangement with, or granted a Trust deed for, their creditors and has not been discharged in respect of it;

24.3. 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 them;

24.4. a person who is a member of the Council of Governors or a governor of another NHS foundation Trust;

24.5. a person who is the spouse, partner, parent or child of a member of the Board of Directors (including the Chair) of the Trust;

24.6. a person who is a member of a committee which has, any role on behalf of a local authority to scrutinise and review health matters including a local authority's Overview and Scrutiny Committee covering health matters;

24.7. a person who is the subject of an unexpired disqualification order made under the Company Directors Disqualification Act 1986;

24.8. a person whose tenure of office as a Chair or as an officer or director of a health service body has been terminated on the grounds that their appointment is not in the interests of the health service, for non-attendance at meetings, or for nondisclosure of a pecuniary interest;

24.9. a person who has within the preceding five (5) years been lawfully dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;

24.10. in the case of a non-executive director, a person who has:

24.10.1. refused without reasonable cause to fulfil any training requirement established by the Board of Directors; or

24.10.2. refused to sign and deliver to the Secretary a statement in the form required by the Board of Directors confirming acceptance of the code of conduct for directors.

24.11. on the basis of disclosures obtained through an application to the Disclosure and Barring Service (DBS), they are not considered suitable by the Trust Secretary in consultation with the Trust's director responsible for Human Resources on the grounds that this would adversely affect public confidence in the Trust or otherwise bring the Trust into disrepute;

24.12. they are a person who has had their name removed or been suspended from any list (including any performers list maintained by NHS England) prepared under the 2006 Act or under any related subordinate legislation or who has otherwise been suspended or disqualified from any healthcare profession, and has not subsequently had their name included in such a list or had their suspension lifted or qualification reinstated.

24.13. they have within the preceding five (5) years been:

24.13.1. made subject to a Hospital Order under section 37 of the MHA whether or not subject to restrictions under section 41:

24.13.2. made subject to an interim Hospital Order under section 38 of the MHA;

24.13.3. made subject to a transfer direction under section 48 of the MHA whether or not subject to restrictions under section 49; and/or

24.13.4. made subject to an order under the Criminal Procedure (Insanity) Act 1964 as amended

24.14. they have previously been or are currently subject to a sex offender order and/or required to register under the Sexual Offences Act 2003 or have committed a sexual offence prior to the requirement to register under current legislation.

24A Board of Directors – meetings

24A.1 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.

24A.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

25. Board of Directors – standing orders

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

26. Board of Directors - conflicts of interest of directors

26.1. The duties that a director of the Trust has by virtue of being a director include in particular:

26.1.1. a duty to avoid a situation in which the director has (or can have) a direct or indirect interest that conflicts (or possibly may conflict) with the interests of the Trust.

26.1.2. a duty not to accept a benefit from a third party by reason of being a director or doing (or not doing) anything in that capacity.

26.2. The duty referred to in paragraph 26.1.1 is not infringed if:

26.2.1. the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or

26.2.2. the matter has been authorised in accordance with the Constitution.

26.3. The duty referred to in paragraph 26.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

26.4. In paragraph 26.1.2, “third party” means a person other than:

26.4.1. the Trust; or

26.4.2. a person acting on its behalf.

26.5. If a director of the Trust has in any way a direct or indirect interest in a proposed transaction or arrangement with the Trust, the director must declare the nature and extent of that interest to the other directors.

26.6. If a declaration under this paragraph proves to be, or becomes, inaccurate, incomplete, a further declaration must be made.

26.7. Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.

26.8. This paragraph does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.

26.9. A director need not declare an interest:

26.9.1. if it cannot reasonably be regarded as likely to give rise to a conflict of interest;

26.9.2. if, or to the extent that, the directors are already aware of it;

26.9.3. if, or to the extent that, it concerns terms of the director’s appointment that have been or are to be considered:

26.9.3.1. by a meeting of the Board of Directors; or

26.9.3.2. by a committee of the directors appointed for the purpose under the Constitution.

26.10. Further provisions as to conflicts of interests are in Annex 7.

27. Board of Directors – remuneration and terms of office

27.1. 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.

27.2. 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.

27.3. The Trust may reimburse executive directors' travelling and other costs and expenses incurred in carrying out their duties as the remuneration committee of non-executive directors decides. These are to be disclosed in the annual report.

27.4. The remuneration and allowances for directors are to be disclosed in bands in the annual report.

27A Joint working and delegation arrangements

27A.1 Subject to paragraph 27A.2 the Trust may arrange in accordance with s65Z5 of the 2006 Act for the joint exercise of functions with any one or more of the following bodies:

27A.1.1 a relevant body;
27A.1.2 a local authority;
27A.1.3 a combined authority.

12A.2 Where the Trust has entered into arrangements for the joint exercise of functions with one or more bodies in accordance with paragraph 27A.1, it may make arrangements for:

27A.2.1 the function to be exercised by a joint committee of theirs
27A.2.1 for one or more of them, or a joint committee of them, to establish and maintain a pooled fund.

27A.3 The Trust must have regard to any guidance published by NHS England under s65Z7.

27A.4 In this paragraph 27A the following terms have the following meanings:

27A.4.1 'Relevant body' has the meaning set out in section 65Z5(2) of the 2006 Act
27A.4.2 'Local authority' means a local authority within the meaning of section 2B of the 2006 Act
27A.4.3 'Combined authority' has the meaning set out in s275 of the 2006 Act

27A.4.4 'Pooled fund' has the meaning set out in s65Z6(3) of the 2006.

27B Duties relating to Integrated care system financial controls

272B.1 The Trust must seek to achieve financial objectives that apply to it under section 223L of the 2006 Act.

27B.2 The Trust must exercise its functions with a view to ensuring that it complies with its duties:

27B.2.1 under s223LA of the 2006 Act to limit expenditure

27B.2. under s223M and s223N of the 2006 Act to limit local capital resource use and local revenue resource use.

28. Registers

The Trust shall have:

28.1. a register of members showing, in respect of each member, the constituency to which they belong and, where there are classes or areas within it, the class or area to which they belong;

28.2. a register of members of the Council of Governors;

28.3. a register of interests of governors;

28.4. a register of directors; and

28.5. a register of interests of the directors.

29. Admission to and removal from the registers

29.1. The Secretary shall add to the register of members the name of any individual who is accepted as a member of the Trust under the provisions of this constitution.

29.2. The Secretary shall remove from the register of members the name of any member who ceases to be entitled to be a member under the provisions of this constitution.

30. Registers – inspection and copies

30.1. The Trust shall make the registers specified in paragraph 28 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

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

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

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

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

30.4. 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.

31. Documents available for public inspection

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

31.1.1. a copy of the current constitution;

31.1.2. a copy of the latest annual accounts and of any report of the auditor on them;

31.1.3. a copy of the latest annual report; and

31.1.4. a copy of the latest information as to its forward planning.

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

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

31.2.2. A copy of any report laid under section 65D (appointment of Trust special administrator) of the 2006 Act;

31.2.3. A copy of any information published under section 65D (appointment of Trust special administrator) of the 2006 Act.

31.2.4. A copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;

31.2.5. A copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act;

31.2.6. A copy of any notice published under section 65F (administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J

(power to extend time), 65KA (NHS England's decision), 65KB (Secretary of State's response to NHS England's decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act;

31.2.7. A copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;

31.2.8. A copy of any final report published under section 65I (administrator's final report);

31.2.9. A copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act;

31.2.10. A copy of any information published under section 65M (replacement of Trust special administrator) of the 2006 Act.

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

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. Auditor

32.1. The Trust shall have an auditor and is to provide the auditor with every facility and all information, which they may reasonably require for the purposes of their functions under Schedule 10 of the 2006 Act.

32.2. A person may only be appointed as the auditor if they (or in the case of a firm, each of its members) is a member of one or more of the bodies referred to in paragraph 23 (4) of Schedule 7 to the 2006 Act.

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

32.4. The auditor shall be required to carry out their duties in accordance with Schedule 10 to the 2006 Act and in accordance with any directions given by NHS England on standards, procedures and techniques to be adopted.

33. Audit committee

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

34. Accounts

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

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

34.3. The accounts are to be audited by the Trust's auditor.

34.4. The Trust shall prepare in respect of each financial year annual accounts in such form as NHS England may with the approval of the Secretary of State direct.

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

34.6. In preparing its annual accounts, the Accounting Officer shall require the Trust to comply with any directions given by NHS England with the approval of the Secretary of State as to:

34.6.1. the methods and principles according to which the accounts are to be prepared; and

34.6.2. the information to be given in the accounts.

34.7. The annual accounts, any report of the auditor on them, and the annual report are to be presented to the Council of Governors at a meeting of the Council of Governors.

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

35. Annual report and forward plans

35.1. The Trust shall prepare an Annual Report and send it to NHS England.

35.2. Each Annual Report is to contain:

35.2.1. information on any steps taken by the Trust to secure that (taken as a whole) the actual membership of its Public Constituencies and of the classes of the Staff Constituency are representative of those eligible for such membership; and

any other information NHS England requires.

35.3. The Trust is to comply with any decision NHS England makes as to:

35.3.1. the form of Annual Reports;

35.3.2. when the reports are to be sent to it;

35.3.3. the periods to which the Annual Reports are to relate.

35.4. The Trust shall give information as to its forward planning in respect of each financial year to NHS England.

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

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

35.7. Each forward plan must include information about –

35.7.1. the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on, and

35.7.2. the income it expects to receive from doing so.

35.8. Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 35.7.1 the Council of Governors must –

35.8.1. determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions, and

35.8.2. notify the directors of the Trust of its determination.

35.9. A Trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more than half of the members of the Council of Governors of the Trust voting approve its implementation.

36. Meeting of Council of Governors to consider annual accounts and reports

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

36.1.1. the annual accounts

36.1.2. any report of the auditor on them

36.1.3. the annual report.

36.2. The documents shall also be presented to the members of the Trust at the annual members' meeting by at least one member of the Board of Directors in attendance.

36.3. The Trust may combine a meeting of the Council of Governors convened for the purposes of paragraph 36.1 with the annual members' meeting.

37. Instruments

37.1. The Trust shall have a seal.

37.2. The seal shall not be affixed except under the authority of the Board of Directors. Attestation by any two Directors shall be deemed to constitute affixing the seal under the authority of the Board of Directors.

37.3. A document purporting to be duly executed under the Trust's seal or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

37A Amendments to the Constitution

37A.1 The Trust may make amendments of this Constitution only if:

37A.1.1 more than half of the members of the Council of Governors of the Trust voting approve the amendments; and

37A.1.2 more than half of the members of the Board of Directors of the Trust voting approve the amendments.

37A.2 Amendments made under paragraph 37A.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as this Constitution would, as a result of the amendment, not accord with schedule 7 of the 2006 Act.

37A.3 Where an amendment is made to this Constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust):

37A.3.1 at least one member of the Council of Governors must attend the next annual members' meeting and present the amendment; and

37A.3.2 the Trust must give the members an opportunity to vote on whether they approve the amendment.

37A.4 If more than half of the members voting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the Trust must take such steps as are necessary as a result.

37A.5 Amendments by the Trust of its Constitution are to be notified to NHS England. For the avoidance of doubt, NHS England's functions do not include a power or duty to determine whether or not this Constitution, as a result of the amendments, accords with Schedule 7 of the 2006 Act.

38. Indemnity

The Trust shall provide an indemnity to any member of the Council of Governors, the Board of Directors or the Secretary that if any such person acts honestly and in good faith such person 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. The Trust may purchase and maintain insurance against this liability for its own benefit and for the benefit of the Council of Governors and the Board of Directors and the Secretary.

39. Not used

40. Mergers etc. and significant transactions

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

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

40.3. For the purposes of paragraph 40.2, "Significant transaction" means amounts equal to or greater than 25% of:-

40.3.1. in relation to assets, the gross assets (being the sum of fixed assets and current assets) subject to the transaction whether contingent or not, divided by the gross assets of the foundation Trust

40.3.2. in relation to income, the income attributable to the assets or the contract associated with the transaction whether contingent or not, divided by the income of the foundation Trust

40.3.3. in relation to acquisitions or divestments whether contingent or not, the gross capital (being the market value of the target's shares and debt securities plus the excess of current liabilities over current assets) of the company being acquired or divested, divided by the total capital (being the total taxpayers' equity) of the Trust following completion, or the effects on the total capital of the Trust resulting from a transaction.

40.4. In assessing the value of any contingent liability for the purposes of paragraph 40.3, the directors:

40.4.1. Must have regard to all circumstances that Directors know, or ought to know, affect or may affect, the value of the contingent liability; and

40.4.2. May rely on estimates of the contingent liability that are reasonable in the circumstances; and

40.4.3. May take account of the likelihood of the contingency occurring.

40.5. A Statutory Transaction under paragraph 40.1 is not a significant transaction for the purposes of paragraph 40.2.

41. Validity of actions

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

ANNEX 1 - THE PUBLIC CONSTITUENCIES

(Paragraphs 6.1 and 6.3)

Areas comprising a Public Constituency	Electoral Wards	Minimum number of Members	Number of Governors to be elected
Bolton North East	Astley Bridge Bradshaw Breightmet Bromley Cross Crompton Halliwell Tonge with the Haulgh	250	6
Bolton South East	Farnworth Great Lever Harper Green Hulton Kearsley Little Lever & Darcy Lever Rumworth	250	6
Bolton West	Atherton Heaton & Lostock Horwich & Blackrod Horwich North East Smithills Westhoughton North & Chew Moor Westhoughton South	250	6
Out of Area	All electoral divisions in England not falling within an area detailed above in this table as being a Public Constituency	100	2

ANNEX 2 - THE STAFF CONSTITUENCY

Staff Class	Minimum number of Members	Number of Governors to be elected
Nurses and midwives who are registered with their regulatory body to practise	20% of the total number of employees who are eligible for membership of the class	2
Doctors and dentists who are registered with their regulatory body to practise	20% of the total number of employees who are eligible for membership of the class	1
Allied health professionals and scientists who are registered with their regulatory body to practise in a clinical capacity	20% of the total number of employees who are eligible for membership of the class	1
All other staff	20% of the total number of employees who are eligible for membership of the class	2

ANNEX 3 – COMPOSITION OF COUNCIL OF GOVERNORS

1 The Council of Governors shall comprise thirty four (34) governors composed as set out below and as illustrated in the following table:

1.1 Twenty (20) Public Governors which must be more than half the total membership of the Council of Governors elected by members of the Trust from the Public Constituencies as set out in Annex 1.

1.2 Six (6) Staff Governors elected by the Staff Classes set out in Annex 2.

1.3 Two (2) Local Authority Governors appointed by Bolton Metropolitan Borough Council or any successor local authority for an area which includes the whole or part of an area forming part of the Public Constituencies set out at Annex 1.

1.4 Six (6) Partnership Governors:

(a) Two (2) Governors appointed by educational institutions from the further and/or higher education sector which shall be: one (1) governor appointed by the University of Bolton and one (1) by Salford University.

(b) Two (2) Partnership Governors appointed by voluntary organisations which shall be appointed by the Council for Voluntary Services (CVS).or a successor organisation

(c) One (1) Partnership Governor appointed by the Bolton LMC (Local Medical Committee), who must be a practising GP.

(d) One (1) Partnership Governor appointed by Bolton Healthwatch or a successor organisation

1.5 Members of the Public Constituencies may elect any of their number to be a Public Governor and members of the Staff Classes may elect any of their number to be a Staff Governor.

Composition of the Council of Governors:

Public Constituency	**Number of seats**
Bolton West	**6**
Bolton North East	**6**
Bolton South East	**6**
Out of Area	**2**
Sub Total	**20**

Staff Constituency	**Number of seats**
Nurses and midwives who are registered with their regulatory body to practise	**2**
Doctors and dentists who are registered with their regulatory body to practise	**1**
Allied health professionals and scientists who are registered with their regulatory body to practise in a clinical capacity	**1**
All other staff	**2**
Sub Total	**6**

Appointed Governors Constituency	**Number of seats**
Bolton Metropolitan Borough Council	**2**
University of Bolton	**1**
Salford University	**1**
Council for Voluntary Services	**2**
Bolton Local Medical Committee	**1**
Bolton Healthwatch	**1**
Sub Total	**8**
TOTAL	**34**

ANNEX 5 – ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS

1 Roles and responsibilities of the Council of Governors

1.1 The statutory duties of the Council of Governors are provided in paragraph 12A of the constitution.

1.2 Each governor shall act in the best interests of the Trust at all times and with proper regard to the provisions of the Code of Governance for NHS Provider Trusts and the Code of Conduct for Governors.

1.3 All governors shall comply with the Code of Conduct for Governors, as agreed by the Board of Directors and the Council of Governors.

2 Appointed Governors

Local Authority Governors

2.1 The Trust Secretary, having consulted with Bolton Metropolitan Borough Council or any successor local authority for an area which includes the whole or part of an area forming part of the Public Constituency, is to adopt a process for agreeing the appointment of Local Authority Governors with that local authority.

Partnership Governors

2.2 The Partnership Governors are to be appointed by the partnership organisations, in accordance with a process agreed with the Trust Secretary

General Provisions

2.3 Appointed Governors:

2.3.1 shall normally hold office for a period of three (3) years commencing on the date such election is to have effect;

2.3.2 are eligible for re-appointment subject to paragraph 2.3.3;

2.3.3 may not where reappointed hold office for longer than nine (9) consecutive years

3 Eligibility to be a Governor

3.1 A person may not become a governor of the Trust, and if already holding such office will immediately cease to do so, if:

3.1.1 they are a director of the Trust, or a governor of another foundation Trust or a director (or equivalent) of a health service organisation

(unless they are an appointed governor appointed by the health service organisation for which they are a governor or director);

3.1.2 they are the spouse, partner, parent or child of a member of the Board of Directors (including the Chair) of the Trust;

3.1.3 they are a member of a committee which has, any role on behalf of a local authority to scrutinise and review health matters including a local authority's Overview and Scrutiny Committee covering health matters;

3.1.4 being a member of the Staff Constituency they have a current and unexpired written warning which has been imposed following disciplinary action by the Trust arising out of their employment with the Trust. if a Staff Governor is suspended from duties for any reason they will also be suspended from their role as a Staff Governor for the duration of their suspension. Whilst a Staff Governor is under suspension, the Staff Governor cannot attend meetings of the Council of Governors as a member of the Council of Governors, but missing any meetings of the Council of Governors will not count as failure to attend for the purposes of paragraph 4.1.2 of this Annex 5. Spent disciplinary warnings will not preclude eligibility to be a Governor;

3.1.5 they refuse to sign a declaration in the form specified by the Secretary that they are a member of a Public Constituency or the Staff Constituency as the case may be and that they are not prevented from being a member of the Council of Governors;

3.1.6 they are a vexatious complainant within the meaning of paragraph 8.4.2;

3.1.7 on the basis of disclosures obtained through an application to the Disclosure and Barring Service, they are not considered suitable by the Trust Secretary and the Trust's director responsible for Human Resources;

3.1.8 they have within the preceding five (5) years been lawfully dismissed, otherwise than by reason of redundancy or ill health, from any paid employment with a health service organisation;

3.1.9 they are a person whose tenure of office as the Chair or as a member or director of a health service organisation has been terminated on the grounds that their appointment is not in the interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;

3.1.10 they are a person who has had their name removed or been suspended from any list (including any performers list maintained by a primary care Trust) prepared under the 2006 Act or under any related subordinate legislation or who has otherwise been

suspended or disqualified from any healthcare profession, and has not subsequently had their name included in such a list or had their suspension lifted or qualification reinstated;

3.1.11 they have within the preceding five (5) years been:

(i) made subject to a Hospital Order under section 37 of the MHA whether or not subject to restrictions under section 41;

(ii) made subject to an Interim Hospital Order under section 38 of the MHA;

(iii) made subject to a transfer direction under section 48 of the MHA whether or not subject to restrictions under section 49; and/or

(iv) made subject to an order under the Criminal Procedure (Insanity) Act 1964 as amended.

3.1.12 they have previously been or are currently subject to a sex offender order and/or required to register under the Sexual Offences Act 2003 or have committed a sexual offence prior to the requirement to register under current legislation;

3.1.13 any of the grounds contained in paragraph 12 of the Constitution apply to that person;

3.1.14 in the case of an elected Public Governor, they cease to be a member of the Constituency by whom they were elected;

3.1.15 they have previously been removed as a governor of the Trust or removed as a governor or expelled from membership of another foundation Trust;

3.1.16 in the case of an Appointed Governor, the appointing organisation terminates the appointment, or they leave, retire or are suspended from their employment. If an Appointed Governor is suspended from their duties for any reason by the appointing organisation they will also be suspended from their role as Governor for the duration of their suspension. Whilst an Appointed Governor is under suspension, the Appointed Governor cannot attend meetings of the Council of Governors as a member of the Council of Governors, but missing any meetings of the Council of Governors will not count as failure to attend for the purposes of paragraph 4.1.2 of this Annex 5;

3.1.17 they are a person who is not a fit and proper person as defined by regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and/or condition G4 of the Trust's provider licence;

3.1.18 they are subject to a direction made under the Education Act 2011 or the Safeguarding Vulnerable Groups Act 2006;

3.1.19 they have failed to make, or has falsely made, any declaration as required to be made under Section 60 of the 2006 Act;

3.1.20 their term of office was terminated pursuant to paragraph 4.2 of this Annex 5;

3.2 Where a person has been elected or appointed to be a Governor and that person becomes disqualified from that appointment that individual shall notify the Trust in writing of such disqualification as soon as practicable and in any event within fourteen days of first becoming aware of those matters which rendered the individual disqualified.

3.3 If it comes to the notice of the Trust that a Governor is disqualified, the Trust shall immediately declare Governor disqualified and shall give the Governor notice in writing to that effect as soon as practicable.

3.4 Upon the giving of notice under paragraphs 3.2 and 3.3 of this Annex, that person's tenure of office as a Governor shall thereupon be terminated and the individual shall cease to be a Governor and the individual's name shall be removed from the Register of Governors.

4 Termination of office and removal of Governors

4.1 A person holding office as a governor shall immediately cease to do so if:

4.1.1 they resign by notice in writing to the Secretary;

4.1.2 they fail to attend three (3) consecutive meetings, unless the Council of Governors is satisfied that:

4.1.2.1 the absences were due to reasonable causes; and

4.1.2.2 they will be able to start attending meetings of the Council of Governors again within such a period as the Council of Governors considers reasonable.

4.1.3 in the case of an elected governor, they cease to be a member of the constituency or class by which they were elected;

4.1.4 in the case of an appointed governor, the appointing organisation terminates the appointment, the appointing organisation ceases to exist or they withdraw themselves as the Appointed Governor representative;

4.1.5 they have refused without reasonable cause to undertake any training which the Council of Governors requires all governors to undertake;

4.1.6 they have failed to sign and deliver to the Secretary a statement in the form required by the Secretary confirming acceptance of the code of conduct for governors;

4.1.7 they cease to fulfil the requirements of paragraph 3.1 above;

4.2 A Governor may be removed from the Council of Governors by a resolution approved by not less than three-quarters of the remaining Governors present and voting at a meeting of the Council of Governors on the grounds that:

4.2.1 They have committed a material breach of the Code of Conduct for Governors; and/or

4.2.2 They have acted in a manner detrimental to the interests of the Trust; and/or

4.2.3 The Council of Governors consider that it is not in the best interests of the Trust for them to continue as a Governor. Circumstances where it may not be appropriate for an individual to continue as a Governor include the circumstances set out in paragraph 4.3;

4.3 The Council of Governors may remove a Governor in accordance with paragraph 4.2.3 where the Council of Governors finds that their continuing as a Governor would or would be likely to:

4.3.1 Prejudice the ability of the Trust to fulfil its principal purpose or of its purposes under this Constitution or otherwise to discharge its duties and functions; or

4.3.2 Prejudice the Trust's work with other persons or body with whom it is engaged or may be engaged in the provision of goods and services; or

4.3.3 Adversely affect public confidence in the goods and services provided by the Trust; or

4.3.4 Otherwise bring the Trust into disrepute or is detrimental to the interest of the Trust; or

4.3.5 Not in the best interests of the Trust for that person to continue in office as a Governor; or

4.3.6 Fail to comply in a material way with the values and principles of the NHS or the Trust.

4.4 Upon a Governor resigning under paragraph 4.1.1 of this Annex or upon the Council of Governors resolving to terminate a Governor's tenure of office in accordance with the above provisions that Governor shall cease to be a Governor and their name shall be removed from the register of Governors.

4.5 The decision of the Council of Governors to terminate the tenure of office of the Governor concerned shall not take effect until the later of:

4.5.1 Seven days after the date of decision; or

4.5.2 Where the Governor applies for the decision to be referred to an independent assessor, the date on which the independent assessor determines the matter.

4.6 The Governor in question will be permitted to appeal any decision of the Council of Governors to terminate that Governor's tenure of office made in accordance with paragraph 4.2 in writing, within 28 days of the date upon which notice of the decision is received, for that decision to be referred to an independent assessor.

4.7 On receipt of an application under paragraph 4.6 above the Council of Governors and the applicant Governor will co-operate in good faith to agree on the appointment of the independent assessor. If the parties fail to agree on the identity of the independent assessor within twenty-one days of the date upon which the application is received by the Council of Governors, then the Council of Governors shall request the Chartered Institute of Arbitrators to nominate an independent assessor.

4.8 The independent assessor will consider the evidence and conclude whether the decision to remove the Governor was reasonable or otherwise.

4.9 The independent assessor's decision will be binding on the parties. If the independent assessor finds that the decision of the Council of Governors to remove the Governor was not reasonable, the decision of the Council of Governors will be rescinded.

4.10 The Trust shall bear the independent assessor's costs unless the independent assessor determines that such costs shall be shared between the Trust and the Governor.

4.11 A Governor:

4.11.1 Who resigns or whose tenure of office is terminated under paragraph 4.1 of this Annex shall not be eligible to stand for re-election for a period of six years from the date of their resignation or removal from office; or

4.11.2 Whose tenure is terminated under paragraph 4.2 of this Annex shall not be eligible to stand for re-election for a period of nine years from the date of their removal from office or the date upon which any appeal against their removal from office is disposed of whichever is the later.

4.11.3 Not less than twenty percent of the Governors may, where the process leading to the possible removal of a Governor has been initiated, require the appointment of an independent assessor to

consider the evidence and advise as to the appropriateness of removal. It will also be available to the Chair to initiate any such independent assessment at any time.

4.12 A Governor may resign from office at any time during the term of office by giving notice in writing to the Trust Secretary save that if in the opinion of the Trust Secretary the Governor's conduct and tenure are or may become subject to review or investigation which may lead to his or her removal under paragraph 4.2, then any such notice of resignation will not be effective without the agreement of the Chair or (if the Chair is conflicted) the Deputy Chair.

4.13 The Chair or (if the Chair is conflicted) the Deputy Chair may suspend a Governor whose conduct and tenure are subject to review or investigation if in the opinion of the Chair or the Deputy Chair such review or investigation may lead to the Governor's removal under paragraph 4.2.

5 Vacancies amongst Governors

5.1 Where a vacancy arises on the Council of Governors for any reason other than expiry of term of office, the following provisions will apply:

5.1.1 where the vacancy arises amongst the appointed governors, the Secretary shall request that the appointing organisation appoints a replacement to hold office for the remainder of the term of office.

5.1.2 where the vacancy arises amongst the elected governors, the Council of Governors shall be at liberty either:

5.1.2.1 to invite the next highest polling candidate for that seat at the most recent election, who is willing to take office, to fill the seat until the next annual election, at which time the seat will fall vacant and be subject to election for any unexpired period of the term of office of the governor who is being replaced.

5.1.2.3 If there is no other candidate available the governors may choose to leave the seat vacant until the next elections are held unless to do so would mean that there is no longer a majority of public governors on the Council of Governors.

5.2 No defect in the election or appointment of a Governor nor any deficiency in the composition of the Council of Governors shall affect the validity of any act or decision of the Council of Governors.

6 Expenses and Remuneration of Governors

6.1 The Trust may reimburse governors for travelling and other costs and expenses incurred in carrying out their duties as the Board of Directors decides.

6.2 The Trust may at their discretion decide to reimburse the cost and expense of a governor's carer arrangements necessarily and reasonably incurred in such governor carrying out their duties as the Board of Directors decide.

6.3 In respect of a Staff Governor who is an employee of the Trust, the Board of Directors shall seek to facilitate such employee's reasonable participation as a Staff Governor during normal working hours to the extent reasonably necessary for the performance of their duties as a Staff Governor (including reasonable time off from their contracted duties) and shall not make any corresponding deduction from salary.

6.4 Governors are not to receive remuneration from the Trust otherwise than as set out in paragraphs 6.1 and/or 6.2 and/or 6.3 above of this Annex 5.

7 Governors Code of Conduct

The Trust may from time to time publish a governors' code of conduct and each governor shall be required to follow and observe such code of conduct's provisions.

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

8 Meetings of the Council of Governors

Calling meetings

8.1 The Council of Governors is to meet a minimum of four (4) times (including the Annual Member's Meeting) in each Financial Year. Save in the case of emergencies or the need to conduct urgent business, the Secretary shall give at least fourteen (14) days' written notice of the date and place of every meeting of the Council of Governors to all governors. Notice will also be published on the trust's website.

8.2 Meetings of the Council of Governors may be called by the Secretary, or by the Chair.

8.3 Meetings of the Council of Governors may be called by ten (10) governors (including at least two (2) elected governors and two (2) appointed governors) who give written notice to the Secretary specifying the business to be carried out. The Secretary shall send a written notice to all governors as soon as possible after receipt of such a request.

8.4 The Secretary shall call a meeting on at least fourteen (14) but not more than twenty eight (28) days' notice.

8.5 If the Secretary fails to call such a meeting following notice pursuant to paragraph 1.3 of Annex 6 above then the Chair or ten (10) governors, whichever is the case, shall call such a meeting.

Quorum

8.6 No business shall be transacted at a meeting of the Council of Governors unless at least one (1) third or not less than ten (10) of the Council of Governors are present. This will include no fewer than seven (7) Public Governors, no fewer than two (2) Staff Governors and no fewer than one (1) appointed governor.

8.7 The Council of Governors shall not be quorate unless a majority of governors present are Public Governors.

8.8 The Council of Governors may invite the Chief Executive or any other member or members of the Board of Directors, or a representative of the auditor or other advisors to attend a meeting of the Council of Governors.

8.9 The Council of Governors may agree that its members can participate in its meetings by telephone, video or computer link. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting.

1.9A A Governor who has declared a non-pecuniary interest in any matter may participate in the discussion and consideration of the matter but may not vote in respect of it: in these circumstances the Governor will count towards the quorum of the meeting. If a Governor has declared a pecuniary interest in any matter, the Governor must leave the meeting room, and will not count towards the quorum of the meeting, during the consideration, discussion and voting on the matter. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the Meeting. The meeting must then proceed to the next business.

Voting

8.10 Except as provided for in this constitution or the 2006 Act and the following provisions of this paragraph, questions arising at a meeting of the Council of Governors shall be decided by a majority of votes of the Governors present and voting on the question.

1.10A At the meeting of the Council of Governors a vote shall be decided on a show of hands, the result being declared by the Chair and recorded in the minutes. The entry in the minutes shall confirm the result without recording the number in favour or against the motion unless a request is made under Standing Order 2.17.

1.10B A paper ballot may be used if a majority of the Governors present so request. If a paper ballot is used, it shall be taken at such time and place and in such a manner as the Chair of the meeting shall direct and the result of the ballot shall be deemed to be the resolution of the meeting at which the ballot was demanded. The demand for a ballot shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a ballot has been demanded.

1.10C 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.

1.10D No resolution of the Council of Governors shall be passed if it is opposed by all of the Public Governors present.

8.11 Not used

Committees

8.12 The Council of Governors may not delegate any of its powers to a committee or sub-committee, but it may appoint committees to assist the Council of Governors in carrying out its functions. The Council of Governors may appoint governors and may invite directors and other persons to serve on such committees. The Council of Governors may, through the Secretary

request that external advisors assist them or any committee they appoint in carrying out its duties.

8.13 All decisions taken in good faith at a meeting of the Council of Governors or of any committee shall be valid even if it is discovered subsequently that there was a defect in the calling of the meeting, or the appointment of the governors attending the meeting.

9 Disclosure of interests

9.1 Any governor who has a material interest in a matter as defined below shall declare such interest to the Council of Governors and shall withdraw from the meeting and play no part in the relevant discussion or decision and shall not vote on the issue (and if inadvertently they do remain and vote, their vote shall not be counted).

9.2 Any governor who fails to disclose any interest required to be disclosed under the preceding paragraph must permanently vacate their office if required to do so by a not less than two thirds of the remaining governors.

Subject to the exceptions below, a material interest in a matter is where a governor:

9.2.1 holds any directorship of a company;

9.2.2 holds any interest or position in any firm or company or business;

9.2.3 has any interest in an organisation providing health and social care services to the National Health Service; or

9.2.4 holds any position of authority in a charity or voluntary organisation in the field of health and social care;

9.2.5 receives research funding/grants either as an individual or to their department;

9.2.6 holds interests in pooled funds that are under separate management.

and such organisation is, in connection with the matter, trading with the trust or entering into a financial arrangement with the trust, or is likely is to be considered as a potential contractor to the trust. In the case of two persons living together as a couple (whether married or not) the interest of one shall be deemed to be also an interest of the other

9.3 The exceptions which shall not be treated as material interests are as follows:

9.3.1 shares held in any company where the value of those securities does not exceed £10,000 or the number of shares held does not

exceed 2% of the total number of issued shares in a company whose shares are listed on any public exchange;

9.3.2 an employment contract with the trust held by a Staff Governor;

9.3.3 an employment contract with a local authority held by a Local Authority Governor;

9.3.4 an employment contract with a partnership organisation held by a Partnership Governor.

10 Declaration

An elected governor may not vote at a meeting of the Council of Governors unless, before attending the meeting, they have made a declaration in the form specified by the Secretary of the particulars of their qualification to vote as a member of the trust and that they are not prevented from being a member of the Council of Governors. An elected governor shall be deemed to have confirmed the declaration upon attending any subsequent meeting of the Council of Governors, and every agenda for meetings of the Council of Governors will draw this to the attention of elected governors.

11 Agendas and Papers

11.1 An agenda, copies of any questions on notice and/or motions on notice to be considered at the relevant meeting and any supporting papers shall be sent to each Governor so as to arrive with each Governor normally no later than 7 days in advance of each meeting. Minutes of the previous meeting will be circulated with these papers for approval and this will be a specific agenda item.

11.2 The Council of Governors may determine that certain matters shall appear on every agenda for a meeting of the Council of Governors and shall be addressed prior to any other business being conducted.

11.3 A Governor desiring a matter to be included on the agenda shall make his request in writing to the Trust Secretary at least 14 days before the meeting. Requests made less than 14 clear days before a meeting may be included on the agenda at the discretion of the Chair.

11.4 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. Receipt of such matters via electronic means is acceptable.

12 Admission of the Public

12.1 All meetings of the Council of Governors are to be general meetings open to members of the public unless the Council of Governors decides otherwise in relation to all or part of a meeting for reasons of commercial confidentiality or on other proper grounds. The Chair may exclude any member of the public

from a meeting of the Council of Governors if they are interfering with or preventing the proper conduct of the meeting.

12.2 Nothing in these Standing Orders shall require the Council to allow members of the public or press to record proceedings in any manner whatsoever, other than in writing, or to make any oral report of proceeding as they take place without the prior agreement of the Council of Governors

13 Chair of Meetings

13.1 The Chair of the Trust, or in that person's absence, the Deputy Chair is to preside at meetings of the Council of Governors. If the Chair is absent from a meeting or temporarily absent on the grounds of a declared conflict of interest the Deputy Chair shall preside. If the Chair and Deputy Chair are absent from the meeting or absent temporarily on the grounds of a declared conflict of interest, such non-executive director as the Governors present shall choose shall preside.

13.2 The Chair of the Trust is not a member of the Council of Governors but the Chair of the Trust or, in their absence, the Deputy Chair of the Trust is to preside over meetings of the Council of Governors.

14 Chair's Ruling

14.1 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 observed at the meeting.

14.2 Save as permitted by law, at any meeting the person presiding shall be the final authority on the interpretation of Standing Orders (on which that person should be advised by the Trust Secretary).

15 Minutes

15.1 The minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting where they will be signed by the person presiding at it. The approved minutes will be conclusive evidence of the events of the meeting and retained by the Trust Secretary.

15.2 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.

16 Standards of business conduct

16.1 In relation to their conduct as a Governor of the Trust, each Governor must comply with the Constitution, the Code of Conduct for Governors, the NHS Foundation Trust Code of Governance, the requirements of the law and any guidance issued by Monitor.

16.2 Governors will confirm their agreement to adhere to the Code of Conduct for Governors by signing a copy annually and returning it to the Trust Secretary.

16.3 Canvassing of Directors or Governors or of any members of any committee of the Trust directly or indirectly for any appointment by the Trust shall disqualify the candidate for such appointment.

16.4 A Governor shall not solicit for any person any appointment under the Trust or recommend any person for such appointment, but 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.

17 Suspension of Standing Orders

17.1 Except where this would contravene any statutory provision or any direction made by Monitor, any one of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Council of Governors are present, including one Public Governor and one Staff Governor, and that a majority of those present vote in favour of suspension.

17.2 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.

17.3 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chair and the members of the Council of Governors.

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

17.5 The Trust's Audit and Risk Committee shall review every decision to suspend Standing Orders.

18 Variation and Amendment of Standing Orders

These Standing Orders may only be amended in accordance with paragraph 37A of the Constitution.

19 Review of Standing Orders

These Standing Orders shall be reviewed annually by the Council of Governors. The requirement for review extends to all documents having effect as if incorporated in these Standing Orders.

20 Interpretation and definitions

20.1 These Standing Orders are the standing orders referred to in paragraph 14 of the Constitution. If there is any conflict between these Standing Orders and the Constitution, the Constitution shall prevail.

20.2 Terms defined in the Constitution shall have the same meaning in these Standing Orders.

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

STANDING ORDERS

April 2023

FOREWORD

NHS Foundation Trusts need to agree Standing Orders (SOs) for the regulation of their proceedings and business. The Board of Directors are also required to adopt a "Schedule of matters reserved" and a "Scheme of Delegation". Which, together with Standing Financial Instructions, provide a regulatory framework for the business conduct of the Trust. They fulfil the dual role of protecting the Trust's interests and protecting staff from any possible accusation that they have acted less than properly. 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.

It is acknowledged within these Standing Orders and the Standing Financial Instructions of the Trust that the Chief Executive and Director of Finance will have ultimate responsibility for ensuring that the Trust Board meets its obligation to perform its functions within the financial resources available.

P*rovisions within the Standing Orders which are not subject to suspension under SO 3.32 are indicated in italics.*

CONTENTS

FOREWORD

INTRODUCTION

Statutory Framework 1

Delegation of Powers 2

1. INTERPRETATION 3

2. THE BOARD OF DIRECTORS 5

Composition of the Board of Directors 5

Appointment of the Chair and Directors 5

Terms of Office of the Chair and Directors 5

Appointment of Deputy-Chair 6

Powers of Deputy-Chair 6

Joint Directors 6

3. MEETINGS OF THE BOARD OF DIRECTORS 7

Admission of the Public and Press 7

Calling Meetings 7

Notice of Meetings 7

Setting the Agenda 8

Chair of Meeting 8

Annual Public Meeting 8

Notices of Motion 8

Withdrawal of Motion or Amendments 8

Motion to Rescind a Resolution 8

Motions - right of reply 9

Chair's Ruling 9

	Voting	9
	Non-Voting Directors	10
	Minutes	10
	Joint Directors	10
	Suspension of Standing Orders	11
	Variation and Amendment of Standing Orders	11
	Record of Attendance	11
	Quorum	11
4.	**ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION**	13
	Emergency Powers	13
	Delegation to Committee	13
	Delegation to Officers	13
5.	**COMMITTEES**	14
	Appointment of Committees	14
	Confidentiality	15
6.	**DECLARATIONS OF INTEREST AND REGISTER OF INTEREST**	16
	Declaration of Interest	16
	Register of Interests	17
7.	**DISABILITY OF DIRECTORS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST**	18
8.	**STANDARDS OF BUSINESS CONDUCT POLICY**	20
	Interest of Officers in Contracts	20
	Canvassing of, and Recommendations by, Directors in Relation to Appointments	20

Relatives of Directors or Officers 20

9. CUSTODY OF SEAL AND SEALING OF DOCUMENTS 22

Custody of Seal 22

Sealing of Documents 22

Register of Sealing 22

10. SIGNATURE OF DOCUMENTS 23

11. MISCELLANEOUS 24

Standing Orders to be given to Directors and Officers 24

Review of Standing Orders 24

INTRODUCTION

Statutory Framework

Bolton NHS Foundation Trust (the Trust) is a Public Benefit Corporation which was established which came into existence on 1 October 2008 as Royal Bolton Hospital NHS Foundation Trust pursuant to authorisation of Monitor under the Health and Social Care (Community Health and Standards) Act 2003. The name of the Trust was changed to Bolton NHS Foundation Trust in 2011.

The principal place of business of the Trust is:

Royal Bolton Hospital, Minerva Road, Bolton, BL4 0JR

The functions of the Trust are conferred by 2006 Act and the Trust will exercise its functions in accordance with the terms of its provider licence (No. 130014) and all relevant legislation and guidance.

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.

The constitution requires the Trust to adopt Standing Orders (SOs) for the regulation of its proceedings and business. This document, together with Standing Financial Instructions (SFIs) and Scheme of Delegation set out the responsibilities of individuals.

Delegation of Powers

All business shall be conducted in the name of the Trust. The business of the Trust is to be managed by the Board of Directors, who shall exercise all the powers of the Trust, subject to any contrary provisions of the 2006 Act given effect by the Constitution.

The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These powers and decisions are set out in the 'Scheme of Reservation and Delegation of Powers'. Those powers which it has delegated to Directors are also contained in the Scheme of Reservation and Delegation of Powers.

1 INTERPRETATION

1.1 Save as permitted by law, at any meeting, the Chair of the Trust shall be the final authority on the interpretation of Standing Orders

1.2 Any expression to which a meaning is given in the 2006 Act or in the Regulations or Orders made thereunder or in paragraph 42 of the constitution shall have the same meaning in these Standing Orders and in addition:

"BUDGET" shall mean a resource, expressed in financial terms, proposed by the Board of Directors for the purpose of carrying out, for a specific period, any or all of the functions of the Trust;

"COMMITTEE" shall mean a committee appointed by the Board of Directors.

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

“CONSTITUTION” shall be the Constitution of Bolton NHS Foundation Trust.

"DIRECTOR" shall mean a person appointed as a director in accordance with the Constitution.

Directors for the purpose of SO/SFI and Scheme of Delegation are those board members reporting directly to the Chief Executive.

"DIRECTOR OF FINANCE" shall mean the chief finance officer of the Trust.

"FUNDS HELD ON TRUST" shall mean those funds which the Trust holds at its date of incorporation.

"MOTION" means a formal proposition to be discussed and voted on during the course of a meeting.

"NOMINATED OFFICER" means an officer charged with the responsibility for discharging specific tasks within SOs and SFIs.

"OFFICER" means an employee of the Trust.

"SFIs" means Standing Financial Instructions.

"SOs" means Standing Orders.

The expression “the Chair of the Trust” shall be deemed to include the Deputy Chair of the Trust if the Chair is absent from the meeting or is otherwise unavailable.

2. THE BOARD OF DIRECTORS

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

2.2 All funds received in Trust shall be in the name of the Trust as corporate Trustee. In relation to funds held on Trust, powers exercised by the Trust as corporate Trustee shall be exercised separately and distinctly from those powers exercised as a Trust.

2.3 The Trust has the functions conferred on it by the 2006 Act and its terms of authorisation.

2.4 Directors acting on behalf of the Trust as a corporate Trustee are acting as quasi-Trustees. Accountability for charitable funds held on Trust is to the Charity Commission. Accountability for non-charitable funds held on Trust is only to NHS England.

2.5 The Trust has resolved that certain powers and decisions may only be exercised or made by the Board of Directors in formal session. These powers and decisions are set out in "Reservation of Powers to the Board" and have effect as if incorporated into the Standing Orders.

2.6 **Composition of the Board of Directors** - In accordance with the 2006 Act and the constitution, composition of the Board of Directors of the Trust shall be:

The Chair of the Trust

At least 5 non-executive directors

At least 5 executive directors including:

• *the Chief Executive (the Chief Officer and Accounting Officer)*

• *the Director of Finance (the Chief Finance Officer)*

• *the Medical Director*

• *the Director of Nursing*

The number of Executive Directors must not be greater than the number of Non-Executive Directors

2.7 **Appointment of the Chair and Directors** - *The Chair and non-executive directors are appointed in accordance with paragraph 21 of the constitution*

The Chair and Non-Executive Directors are appointed and removed by the Council of Governors at a general meeting of the Council of Governors.

The Chair and Non-Executive Directors shall be appointed for a term of office of up to three years and may be appointed to serve a further term of up to three years (depending on satisfactory performance) and subject to the provisions of the 2006 Act in respect of removal of a Director.

2.8 **Terms of Office of the Chair and Directors** - The regulations governing the period of tenure of office of the Chair and directors will be in accordance the constitution.

The Chair and Non-Executive Directors may, in exceptional circumstances, serve longer than six years subject to rigorous review and NHS England approval. Such appointments beyond six years shall be subject to annual re-appointment and external competition if recommended by the Board and approved by the Council of Governors.

Any re-appointment after the second term of office (irrespective of tenure duration), for the Chair and Non-Executive Directors, shall be subject to a performance evaluation carried out in accordance with procedures approved by the Council of Governors to ensure that those individuals continue to be effective, demonstrate commitment to the role and demonstrate independence.

2.9 Appointment of Deputy Chair

Subject to paragraph 22 of the constitution, the Council of Governors, on recommendation of the Trust Chair, may appoint a non-executive director to be Deputy Chair for such a period, not exceeding the remainder of his/her term as non-executive director of the Trust, as they may specify on appointing him/her.

Any non-executive director so appointed may at any time resign from the office of Deputy-Chair by giving notice in writing to the Chair and the Council of Governors may thereupon appoint another Non-Executive Director as Deputy-Chair in accordance with this Standing Order.

2.9A **Appointment of Senior Independent Director** – *the Board of Directors shall, following consultation with the Council of Governors, appoint one of the non-executive directors to be the senior independent director and one of the non-executive directors to be the deputy senior independent director.*

In accordance with a process to be agreed between the Chair and Council of Governors, the senior independent director will lead in the process for evaluating the performance of the Chair.

The senior independent director shall lead a meeting of the Non-Executive Directors at least annually without the Chair to evaluate the Chair's performance, as part of the process agreed with the Council of Governors for appraising the Chair.

The expression "senior independent director" shall be deemed to include the deputy senior independent director of the Trust if the senior independent director is absent from the meeting or is otherwise unavailable.

2.10 **Powers of Deputy Chair** - *Where the Chair of the Trust has died or has otherwise ceased to hold office or where they have been unable to perform their duties as Chair owing to illness, absence from England and Wales or any other cause, references to the Chair in these Standing Orders shall, so long as there is no Chair able to perform their duties, be taken to include references to the Deputy Chair.*

2.11 **Joint Directors** - *Where more than one person is appointed jointly to a post in the Trust which qualifies the holder for executive directorship or in relation to which an executive director is to be appointed, those persons shall become appointed as an*

executive director jointly, and shall count for the purpose of Standing Order 2.6 as one person.

3. MEETINGS OF THE BOARD OF DIRECTORS

3.1 **Admission of the Public and Press** – The public shall be admitted to all formal meetings of the Board, but shall be required to withdraw upon the Board of Directors resolving as follows:

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

3.2 The Board may treat the need to receive or consider recommendations or advice from sources other than Directors, Committees or Sub-Committees of the Board as a special reason why publicity would be prejudicial to the public interest.

3.3 Nothing in these Standing Orders shall require the Board of Directors to allow members of the public or representatives of the press to record proceedings in any manner.

3.4 **Calling Meetings** - Ordinary meetings of the Board of Directors shall be held at such times and places as the Board of Directors may determine.

3.5 *The Chair may call a meeting of the Board of Directors at any time. If the Chair refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of directors, has been presented, or if, the Chair does not call a meeting within seven days after such requisition has been presented,* at the Trust's Headquarters*, one third or more directors may forthwith call a meeting.*

3.6 **Notice of Meetings** - *Before each meeting of the Board of Directors, a notice of the meeting, shall be delivered to every director, at least three clear days before the meeting.*

3.8 In the case of a meeting called by directors in default of the Chair, the notice shall be signed by those directors and no business shall be transacted at the meeting other than that specified in the notice.

3.9 Public notice of the time and place of any meeting of the Board (open to the public) will be posted on the Trust's web site at least three clear days before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened. Such notice, together with a copy of the agenda, will be supplied, on request to the press.

3.10 **Setting the Agenda** - The Board of Directors may determine that certain matters shall appear on every agenda for a meeting of the Board of Directors and shall be addressed prior to any other business being conducted.

3.11 A director desiring a matter to be included on an agenda should make this request in writing to the Chair at least ten clear days before the meeting. Requests made less than ten days before a meeting may be included on the agenda at the discretion of the Chair.

3.12 **Chair of Meeting** - *At any meeting of the Board of Directors, the Chair, if present, shall preside. If the Chair is absent from the meeting the Deputy-Chair, if there is one and they are present, shall preside. If the Chair and Deputy-Chair are absent such non-executive director as the directors present shall choose shall preside.*

3.13 If the Chair is absent from a meeting temporarily on the grounds of a declared conflict of interest the Deputy-Chair, if present, shall preside. If the Chair and Deputy-Chair are absent, or are disqualified from participating, such non-executive director as the directors present shall choose shall preside.

3.14 **Annual Public Meeting** - The Trust will publicise and hold an annual public meeting in accordance with the constitution and the Act.

3.15 **Notices of Motion** - A director of the Trust desiring to move or amend a motion shall send a written notice thereof at least ten clear days before the meeting to the Chair, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible under the appropriate regulations. This paragraph shall not prevent any motion being moved during the meeting, without notice on any business mentioned on the agenda subject to SO 3.8.

3.16 **Withdrawal of Motion or Amendments** - A motion or amendment once moved and seconded may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Chair.

3.17 **Motion to Rescind a Resolution** - Notice of motion to amend or rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the director who gives it and also the signatures of four other directors. When any such motion has been disposed of 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, however the Chair may do so if considered appropriate.

3.18 **Motions** - The mover of a motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.

3.19 When a motion is under discussion or immediately prior to discussion it shall be open to a director to move:

- An amendment to the motion.
- The adjournment of the discussion or the meeting.
- That the meeting proceed to the next business. (*)
- The appointment of an ad hoc committee to deal with a specific item of business.
- That the motion be now put. (*)

* In the case of sub-paragraphs denoted by (*) above to ensure objectivity motions may only be put by a director who has not previously taken part in the debate. No amendment to the motion shall be admitted if, in the opinion of the Chair of the meeting, the amendment negates the substance of the motion.

3.20 **Chair's Ruling** - The decision of the Chair of the meeting on questions of order, relevancy and regularity (including procedure on handling motions) and their interpretation of the Standing Orders, shall be final.

3.21 **Voting** - *Every question at a meeting shall be determined by a majority of the votes of the directors present and voting on the question and, in the case of any equality of votes, the person presiding shall have a second or casting vote.*

3.22 All questions put to the vote shall, at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the directors present so request.

3.23 If at least one-third of the directors present so request, the voting (other than by paper ballot) on any question may be recorded to show how each director present voted or abstained.

3.24 If a director so requests, their vote shall be recorded by name upon any vote (other than by paper ballot).

3.25 In no circumstances may an absent director vote by proxy. Absence is defined as being absent at the time of the vote.

3.26 An officer who has been appointed formally by the Board of Directors to act up for an executive director will have the voting rights of that executive director. An officer attending the Board of Directors to represent an executive director without formal acting up status may not exercise the voting rights of the executive director.

3.27 **Non – Voting Directors** - Non Voting Directors are ones who Board members have determined should attend the Board in order to provide it with particular expertise on a continuing basis. They may be expected to attend some or all Board meeting whether held in public or private.

They will receive all board papers for agenda items against which their contributions are required. They will have the opportunity to participate in all board discussions but may not take part in any voting and may be excluded from any part of a Board meeting at the request of the Chair.

All matters discussed or witnessed by attendees shall be regarded as confidential to the board save for those where actions are agreed otherwise.

In order that they do not become liable for decisions made, the Chair will make clear that they are being invited to comment upon items for debate but not take part in any vote should one occur

3.28 **Minutes** - *The Minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next meeting.*

3.29 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.

3.30 Minutes shall be circulated in accordance with directors' wishes. Where providing a record of a public meeting the minutes shall be made available to the public.

3.31 **Joint Directors** - *Where a post of executive director is shared by more than one person:*

(a) both persons shall be entitled to attend meetings of the Trust:

(b) either of those persons shall be eligible to vote in the case of agreement between them:

(c) in the case of disagreement between them no vote should be cast;

(d) the presence of either or both of those persons shall count as one person for the purposes of SO 3.38 (Quorum).

3.32 **Suspension of Standing Orders** - Except where this would contravene any statutory provision, any one or more of the Standing Orders may be suspended at any meeting, provided that at least half (normally six) of the Board of Directors are present, including one executive director and one non-executive director, and that a majority of those present vote in favour of suspension.

3.33 A decision to suspend SOs shall be recorded in the minutes of the meeting.

3.34 A separate record of matters discussed during the suspension of SOs shall be made and shall be available to the directors.

3.35 No formal business may be transacted while SOs are suspended.

3.36 The Audit Committee shall review every decision to suspend SOs.

3.37 **Variation and Amendment of Standing Orders** - These Standing Orders shall not be revoked, varied or amended except upon:

a) A report to the Board by the Chief Executive or the Director of Corporate Governance acting on their behalf.

b) A notice of motion under Standing Order 3.15, such revocation, variation or amendment having to be approved by a number of Directors equal to at least two-thirds (normally eight including the Chair) of the whole number of Directors of the Board, and provided that any revocation, variation or amendment does not contravene a statutory provision or direction made by the Secretary of State.

3.38 **Record of Attendance** - *The names of the directors present at the meeting shall be recorded* in the minutes.

3.39 **Quorum** - *No business shall be transacted at a meeting of the Board of Directors unless at least one-third of the whole number of the directors are present including at least one executive director and one non-executive director.*

3.40 An officer in attendance for an executive director but without formal acting up status may not count towards the quorum.

3.41 If a director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest (see SO 6 or 7) they will 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.

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

4.1 , The Board of Directors may make arrangements for the exercise of any of its functions by a committee or sub-committee, appointed by virtue of SO 5.1 or 5.2 below or by an executive director of the Trust in each case subject to such restrictions and conditions as the Board of Directors thinks fit.

4.2 **Emergency Powers** - The powers which the Board of Directors has retained to itself within these Standing Orders (SO 2.5) may in emergency be exercised by the Chief Executive and the Chair after having consulted at least two non-executive directors. The exercise of such powers by the Chief Executive and the Chair shall be reported to the next formal meeting of the Board of Directors for ratification.

4.3 **Delegation to Committees** - The Board of Directors shall agree from time to time to the delegation of executive powers to be exercised by 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 of Directors.

4.4 **Delegation to Officers** - Those functions of the Trust which have not been retained as reserved by the Board of Directors or delegated to an executive committee or subcommittee shall be exercised on behalf of the Board of Directors by the Chief Executive. The Chief Executive shall determine which functions to perform personally and shall nominate officers to undertake the remaining functions for which the CEO will still retain an accountability to the Board of Directors.

4.5 The Chief Executive shall prepare a Scheme of Delegation, which shall be considered and approved by the Board of Directors, subject to any amendment, agreed during the discussion. The Chief Executive may periodically propose amendment to the Scheme of Delegation, which shall be considered and approved by the Board of Directors as indicated above.

4.6 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of Directors of the Director of Finance and Commissioning or other executive director to provide information and advise the Board of Directors in accordance with any statutory requirements.

5. COMMITTEES

5.1 **Appointment of Committees** - *The Board of Directors may appoint committees of the Board of Directors, consisting wholly or partly of directors of the Trust.*

5.2 *A committee appointed under SO 5.1 may, subject to such directions as may be given by the Board of Directors appoint sub-committees consisting wholly or partly of members of the committee.*

5.3 The Standing Orders of the Trust, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees or sub-committee established by the Board of Directors.

5.4 Each such committee or sub-committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board of Directors), as the Board of Directors shall decide. Such terms of reference shall have effect as if incorporated into the Standing Orders.

5.5 Committees may not delegate their executive powers to a sub-committee unless expressly authorised by the Board of Directors.

5.6 The Board of Directors shall approve the appointments to each of the committees, which it has formally constituted. .

5.7 Not used

5.8 The committees formally established by the Board of Directors are:

- Audit and Risk Committee
- Quality Assurance Committee
- Finance and Investment Committee
- People Committee
- Nomination and Remuneration
- Strategy and Operations Committee
- Charitable Funds Committee

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

5.10 A Director of the Trust or a member of a committee shall not disclose any matter reported to the Board of Directors or otherwise dealt with by the committee, notwithstanding that the matter has been reported or action has been concluded, if the Board of Directors or committee shall resolve that it is confidential.

6. DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

Pursuant to paragraph 28 of the constitution, a register of Director's and Governor's interests must be kept by the Trust

6.1 **Declaration of Interests** - The constitution requires board directors (including for the purposes of this document Non-executive Directors) and Governors to declare interests, which are relevant and material. All existing board directors should declare relevant and material interests. Any board directors or governors appointed subsequently should do so on appointment or election.

6.2 All employees of the Trust who have a direct financial interest in a private company of any description which may be engaged in the provision of goods or services to the NHS, must declare that interest in in accordance with the "*Standards of Business Conduct Policy"* at the time of appointment or commencement of any such interest**.**

6.3 Interests which should be regarded as "relevant and material" and which, for the avoidance of doubt, should include in the register are:

a) Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies).

b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS.

c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS.

d) A position of authority in a charity or voluntary organisation in the field of health and social care.

e) Any connection with a voluntary or other organisation contracting for NHS services.

f) Any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the NHS Foundation Trust, including but not limited to, lenders or banks.

6.4 If board directors or governors have any doubt about the relevance of an interest, this should be discussed with the Director of Corporate Governance.

6.5 Any changes in interests should be declared at the next Board of Directors' meeting following the change. It is the obligation of the director or governor to inform the Director of Corporate Governance in writing within seven days of becoming aware of the existence of a relevant or material interest.

6.6 The names of directors holding directorships of companies in 6.3(a) above or in companies likely or possibly seeking to do business with the NHS (6.3(b) above) should be published in the board's annual report. The information should be kept up to date for inclusion in succeeding annual reports.

6.7 During the course of a Board of Directors meeting or a governor meeting, if a conflict of interest is established, the director or governor concerned should withdraw from the meeting and play no part in the relevant discussion or decision. For the avoidance of doubt, this includes voting on such an issue where a conflict is established. If there is a dispute as to whether a conflict of interest does exist, majority will resolve the issue with the Chair having the casting vote.

6.8 Register of Interests - The details of directors' and governors' interests recorded in the Register will be reviewed on a quarterly basis by the Audit and Risk Committee.

6.9 In accordance with paragraph 30 of the constitution, the Register will be available for inspection. The Chair will take reasonable steps to bring the existence of the

Register to the attention of the local population and to publicise arrangements for viewing it. Copies or extracts of the Register must be provided to members of the Trust free of charge and within a reasonable time period of the request. A reasonable charge may be imposed on non-members for copies or extracts of the Register.

7. DISABILITY OF DIRECTORS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST

7.1 Subject to the following provisions of this Standing Order, if a director of the Trust 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 will at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

7.2 Not used.

7.3 The Trust shall exclude a director from a meeting of the Board of Directors while any contract, proposed contract or other matter in which they have a pecuniary interest, is under consideration.

7.4 Any remuneration, compensation or allowances payable to a director by virtue of their position as a director of the Trust shall not be treated as a pecuniary interest for the purpose of this Standing Order.

7.5 For the purpose of this Standing Order the Chair or a director shall be treated, subject to SO 7.2 and SO 7.6, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:

- *a) they or a close associate* of theirs, is a director of a company or other body, not being public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or*
- *b) they or a close associate* of theirs is a business 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;.*

7.6 A director shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

- *a) of membership of a company or other body, with no beneficial interest in any securities of that company or other body;*
- *b) of an interest in any company, body or person as mentioned in SO 7.5 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a director in the consideration or discussion of or in voting on, any question with respect to that contract or matter.*

7.7 Where a director:

a) 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

b) the total nominal value of those securities does not exceed £5,000 or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and

c) if the share capital is of more than one class and the total nominal value of shares of any one class does not exceed one hundredth of the total issued share capital of that class, this Standing Order shall not prohibit them 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 the duty to disclose an interest.

7.8 Standing Order 7 applies to a committee or sub-committee of the Board of Directors as it applies to the Board of Directors and applies to any member of any such committee or sub-committee as it applies to a director of the Trust.

For the purposes of these Standing Orders a "Close Associate" is taken to cover the following:

- *Married persons and those in Civil partnerships or cohabiting. In which case, the interest of one shall, if known to the other, be deemed for the purposes of this Standing Order to be also an interest of the other.*
- *Interests of parents, siblings or children*
- *Interests of current and former business partners*

8. STANDARDS OF BUSINESS CONDUCT

8.1 **Policy** – The Trust has adopted a Standards of Business Policy and staff must comply with this guidance and guidance in the Bribery Act 2010. The following provisions should be read in conjunction with these documents.

8.2 **Interest of Officers in Contracts** - If it comes to the knowledge of a director or an officer of the Trust that a contract in which they have any pecuniary interest not being a contract to which they are a party, has been, or is proposed to be, entered into by the Trust they shall, at once, give notice in writing to the Chief Executive of the fact. In the case of married persons [or persons] living together as partners, the interest of one partner shall, if known to the other, be deemed to be also the interest of that partner.

8.3 An officer must also declare any other employment or business or other relationship of theirs or a close associate as previously defined, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust. The Trust shall require interests, employment or relationships so declared by staff to be entered in a register of interests of staff.

8.4 **Canvassing of and Recommendations by, Directors in Relation to Appointments** - Canvassing of directors of the Trust or members 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.

8.5 A director 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 director from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

8.6 Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.

8.7 **Relatives of Directors or Officers** - Candidates for any staff appointment shall when making application disclose in writing 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 them liable to instant dismissal.

8.8 The directors and every officer of the Trust shall disclose to the Chief Executive any relationship with a candidate of whose candidature that director or officer is aware. It shall be the duty of the Chief Executive to report to the Board of Directors any such disclosure made.

8.9 Prior to acceptance of an appointment directors should disclose to the Trust whether they are related to any other director or holder of any office within the Trust.

8.10 Where the relationship of an officer or another director to a director of the Trust is disclosed, the Standing Order headed `Disability of directors in proceedings on account of pecuniary interest' (SO 7) shall apply.

8.11 Any Board member or member of staff who receives or is offered hospitality in excess of £50.00 must decline that hospitality and is required to enter the details of the hospitality in the Trust's Hospitality Register.

8.12 The Board recognise the offences set out in the Bribery Act:

- to give, promise or offer a bribe,
- to request, agree to receive or accept a bribe either in the UK or overseas
- A corporate offence of failure to prevent bribery by persons working on behalf of a commercial organisation.

9. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

9.1 **Custody of Seal** - The Common Seal of the Trust shall be kept by the Director of Corporate Governance in a secure place in accordance with arrangements approved by the Board.

9.2 **Sealing of Documents** - The Seal of the Trust shall not be fixed to any documents unless the sealing has been authorised by the Board of Directors, a Board Committee or where the Board of Directors has delegated its powers.

9.3 On approval by the Board, or by the Chair or the Chief Executive under delegated powers, to a transaction in pursuance of which the Common Seal of the Board is required to be affixed to appropriate documents, shall be deemed also to convey authority for the use of the Common Seal.

9.4 Where approval to the sealing of a document has been given specifically in pursuance of a resolution of the Board or in accordance with Standing Order No.9.3 above, the Seal shall be affixed in the presence of the Chair, or other Officer duly authorised and an Executive Director of the Trust, and shall be attested by them.

9.5 **Register of Sealing** - An entry of every sealing shall be made and numbered consecutively in a book provided for that purpose, and shall be signed by the persons who shall have approved and authorised the document and those who attested the seal. A report of all sealing shall be made to the Audit Committee at least annually. (The report shall contain details of the seal number, the description of the document and date of sealing).

10. SIGNATURE AND INSPECTION OF DOCUMENTS

10.1 Where the signature of any document will be a necessary step in legal proceedings involving the Trust, it shall be signed by the Chief Executive, unless any enactment otherwise requires or authorises, or the Board of Directors shall have given the necessary authority to some other person for the purpose of such proceedings.

10.2 The Chief Executive or nominated officers shall be authorised, by resolution of the Board of Directors, to sign on behalf of the Trust any agreement or other document (not required to be executed as a deed) the subject matter of which has been approved by the Board of Directors or committee or sub-committee to which the Board of Directors has delegated appropriate authority.

10.3 A Director of the Board may for purposes of their duty as a Director, but not otherwise, inspect any document which has been considered by the Chair or Chief Executive or senior officers under the terms of their delegated powers, or by the Board, provided that the Director shall not knowingly inspect ore request a document relating to a matter in which they are professionally interested or in which they have directly or indirectly any pecuniary interest.

This Standing Order shall not preclude the Chief Executive from declining to allow inspection of any document which is, or in the event of legal proceedings would be, protected by privilege.

10.4 Nothing in the above paragraphs of this Standing Order 10 shall be interpreted as giving the right to Directors to have access to confidential patient records.

11. MISCELLANEOUS

11.1 **Standing Orders to be given to Directors and Officers** - It is the duty of the Chief Executive to ensure that existing directors and officers and all new appointees are notified of and understand their responsibilities within the Standing Orders and SFIs.

11.2 **Review of Standing Orders** - Standing Orders shall be reviewed bi-annually by the Board of Directors. The requirement for review extends to all documents having the effect as if incorporated in SOs.

ANNEX 8 MEMBERSHIP AND MEMBERS MEETINGS

1 Members Meetings

1.1 The Trust is to hold a members meeting (called the annual members meeting) within nine (9) months of the end of each Financial Year.

1.2 All members meetings other than annual meetings are called special members meetings.

1.3 Members meetings are open to all members of the Trust, governors and directors, and representatives of the auditor. Annual members meetings are also open to all members of the public who are not members of the Trust, but only in the capacity as an observer (which for the avoidance of doubt does not include any right to address the meeting, speak, be heard or vote at such meeting). Special members meetings should not be open to members of the public unless the Council of Governors decides otherwise.

1.4 The Council of Governors may invite representatives of the media and any experts or advisors whose attendance they consider to be in the best interests of the Trust to attend a members meeting.

1.5 All members meetings are to be convened by the Secretary by order of the Council of Governors.

1.6 The Council of Governors may decide where a members meeting is to be held and may also for the benefit of members arrange for the annual members meeting to be held in different venues each year.

1.7 The Council of Governors shall also fix an appropriate quorum for each venue provided that the aggregate of the quorum requirements shall not be less than the quorum set out below at the annual members meeting.

1.8 At each annual members meeting the Board of Directors shall present to the members:

1.8.1 the annual accounts

1.8.2 any report of the auditor on the annual accounts

1.8.3 the annual report

1.8.4 forward planning information for the next financial year

1.9 At each annual members meeting the Council of Governors shall present to the members:

1.9.1 a report on steps taken to secure that (taken as a whole) the actual membership is representative of those eligible for such membership;

1.9.2 the progress of the membership strategy

1.9.3 any proposed changes to the policy for the composition of the Council of Governors and of the non-executive Directors

1.10 At any members meeting the results of the election and appointment of governors and the appointment of non-executive Directors that have occurred since the preceding members meeting will be announced.

1.11 Notice of a members meeting is to be given:

1.11.1 by notice to all members;

1.11.2 by notice prominently displayed at the head office and at all of the Trust's places of business; and

1.11.3 by notice on the Trust's website at least fourteen (14) clear days before the date of the meeting.

1.12 The notice of a members meeting must:

1.12.1 be given to the Council of Governors and the Board of Directors, and to the auditor;

1.12.2 state whether the meeting is an annual or special members meeting;

1.12.3 give the time, date and place of the meeting; and

1.12.4 indicate the business to be dealt with at the meeting.

1.13 Before a members meeting can do business there must be a quorum present. Except where this constitution says otherwise a quorum is at least ten members present from the public constituencies and at least ten members present from the staff constituency.

1.14 The Trust may make arrangements for members to vote by post, or by using electronic communications.

1.15 It is the responsibility of the Council of Governors, the Chair of the members meeting and the Secretary to ensure that at any members meeting:

1.15.1 the issues to be decided are clearly explained;

1.15.2 sufficient information is provided to members to enable rational discussion to take place.

1.16 The Chair of the Trust, or in their absence the Deputy Chair of the Board of Directors, or in their absence one of the other non executive Directors shall act as Chair at all members meetings of the Trust.

1.17 If no quorum is present within half an hour of the time fixed for the start of the meeting, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the Council of Governors determine. If a quorum is not present within half an hour of the time fixed for the

start of the adjourned meeting, the number of members present during the meeting is to be a quorum.

1.18 A resolution put to the vote at a members meeting shall be decided upon by a poll.

1.19 Every member present and every member who has voted by post or using electronic communications is to have one vote. In the case of an equality of votes the Chair of the meeting is to have a second or casting vote.

1.20 The result of any vote will be declared by the Chair of the members meeting and entered in the minute book. The minute book will be conclusive evidence of the result of the vote.

1.21 The ruling of the Chair on a point of order shall be final.

1.22 The agenda shall set out the business to be conducted at the meeting. No business other than that set out in the agenda shall be considered at a Members' meeting unless specifically agreed by the Chair.

2 Termination of Membership

2.1 A member shall cease to be a member if:

2.1.1 they resign by notice to the Secretary;

2.1.2 they die;

2.1.3 they are expelled from membership under this constitution;

2.1.4 they cease to be entitled under this constitution to be a member of the Public Constituencies or of any of the classes of the Staff Constituency;

2.1.5 it appears to the Secretary that they no longer wish to be a member of the Trust, and after enquiries made in accordance with a process approved by the Council of Governors they fail to demonstrate that they wish to continue to be a member of the Trust;

2.1.6 they are disqualified from membership by paragraph 8 of the Constitution or paragraph 4 of this Annex 8;

2.2 A member may be expelled by a resolution of the majority of the Council of Governors present and voting at a meeting of the Council of Governors. The following procedure is to be adopted:

2.3 Any member may complain to the Secretary that another member has acted in a way detrimental to the interests of the Trust.

2.4 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:

2.4.1 subject to the disputes procedure set out at Annex 9, paragraph 1 dismiss the complaint and take no further action; or

2.4.2 for a period not exceeding twelve (12) months suspend the rights of the member complained of to attend members meetings and vote under this constitution;

2.4.3 arrange for a resolution to expel the member complained of to be considered at the next meeting of the Council of Governors.

2.5 If a resolution to expel a member is to be considered at a meeting of the Council of Governors, details of the complaint must be sent to the member complained of not less than one (1) month before the meeting with an invitation to answer the complaint and attend the meeting.

2.6 At the meeting of the Council of Governors the Council of Governors will consider evidence in support of the complaint and such evidence as the member complained of may wish to place before them.

2.7 If the member complained of fails to attend the meeting of the Council of Governors without due cause the meeting may proceed in their absence.

2.8 A person expelled from membership will cease to be a member upon the declaration by the Chair of the meeting of the Council of Governors that the resolution to expel them is carried.

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

3 Representative membership

The Trust shall take steps to ensure that taken as a whole its actual membership is representative of those eligible for membership. To this end the Trust shall at all times have in place a membership strategy which shall be approved by the Council of Governors, and which shall be reviewed by them from time to time.

4 Disqualification from membership

A person may not become or continue as a member of the Trust:

4.1 If, in the opinion of the Council of Governors, there are reasonable grounds to believe that they are likely to act in a way detrimental to the interests of the Trust, or;

4.2 If they are subject to a direction made under the Education Act 2011 or the Safeguarding Vulnerable Groups Act 2006;

4.3 If they are subject to a Sexual Offenders Order under the Sexual Offences Act 2003 or other relevant legislation; or

4.4 If they have been removed as a member of the Trust or removed as a member of another NHS foundation Trust.

ANNEX 9 FURTHER PROVISIONS

1 Dispute Resolution Procedures

1.1 In the event of any dispute about the entitlement to membership the dispute shall be dealt with as follows:

1.1.1 Where an individual is held by the Trust to be ineligible and/or disqualified from membership of the Trust and disputes the Trust's decision in this respect, the matter shall be referred to the Chief Executive (or such other officer of the Trust as the Chief Executive may nominate) as soon as reasonably practicable thereafter.

1.1.2 The Chief Executive (or a nominated representative) shall:

(a) Review the original decision having regard to any representations made by the individual concerned and such other material, if any, as the Chief Executive considers appropriate;

(b) Then either confirm the original decision or make some other decision as appropriate based on the evidence which the Chief Executive has considered; and

(c) Communicate his decision and the reasons for it in writing to the individual concerned as soon as reasonably practicable.

1.1.3 Notwithstanding paragraph 2.2 of Annex 8 and paragraph 1.1.2 of this Annex 9 an independent assessor may be appointed (as if it had been a possible removal pursuant to and using the process set out in 1.1.2 of this Annex 9) to consider the evidence and advise on whether this justified disqualification under the terms of the Constitution.

1.1.4 In the event that the independent assessor appointed pursuant to paragraph 1.1.3 advises that the evidence justifies the disqualification, the original decision to disqualify shall stand. If however the independent assessor advises that there is at least reasonable doubt that the evidence justified disqualification, the matter shall be put to the Council of Governors to decide whether to uphold the disqualification or not (such decision requiring support of not less than three quarters of the Governors present and voting at a meeting of the Council of Governors convened for that purpose). If the Council of Governors does not uphold the disqualification, then such disqualification shall not stand and the individual subject to the proposed disqualification shall remain a member of the Trust.

1.1.5 Pending a decision of the independent assessor or the Council of Governors as referred to in paragraph 1.1.4, the individual shall

(without prejudice to the outcome of such review process) not be able to exercise any right or powers of member.

1.2 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.

1.3 In the event of dispute between the Council of Governors and the Board of Directors:

1.3.1 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;

1.3.2 if the Chair is unable to resolve the dispute they shall refer the dispute to the Trust Secretary who shall appoint a joint special committee constituted as a committee of the Board of Directors and a committee of the Council of Governors, both comprising equal numbers, 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;

1.3.3 if the recommendations (if any) of the joint special committee are unsuccessful in resolving the dispute, either constituent may resolve to refer the dispute for resolution by NHS England.

1.4 On the satisfactory completion of this disputes process the Board of Directors or Council of Governors, as appropriate, shall implement any agreed actions.

1.5 The existence of the dispute shall not prejudice the duty of the Board of Directors in the exercise of the Trust's powers on its behalf.

1.6 Nothing in this procedure shall prevent the Council of Governors, if it so desires, from informing NHS England that, in the Council of Governors' opinion, the Board of Directors has not responded constructively to concerns of the Council of Governors and that the Trust is not meeting the conditions of its provider licence.