

MAIDSTONE AND TUNBRIDGE WELLS NHS TRUST

Standing Orders

Requested/ Required by:	Audit Committee and Board
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Supersedes:	Standing Orders (with effect from July 2012)
Reviewed by:	Audit Committee, 19 th September 2013
Approved by:	Trust Board, 25 th September 2013
Review date:	November 2015

November 2014: Please note that the Standing Financial Instructions (SFIs) were revised in November 2014. Amendments were made, including changes to delegated authorisation limits. These changes have not yet been reflected in **this** document. Please therefore defer to the content of the revised SFIs wherever a cross-reference is made to the SFIs in this document. Alternatively, please contact the Finance Department for advice. This document will be reviewed and revised by November 2015.

With effect from September 2013

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This copy – REV4.5

Document history

Requirement for document: (Why is this document necessary?)	<ul style="list-style-type: none"> • Code of Accountability • Trust (Functions) Directions 2000 issued by the Secretary of State
Cross References / Associated Documents: (List all best practice documents supporting this document)	<ul style="list-style-type: none"> • National Health Service Act 2006 • Caldicott Guardian 1997; • Human Rights Act 1998; • Freedom of Information Act 2000. • Data Protection Act 1998 • Standards of Business Conduct for NHS Staff, Code of Conduct and Trust Board Code of Conduct • Nolan Standards of Public Life • Staff Disciplinary and Appeals Procedures adopted by the Trust • Bribery Act 2010 • Standing Financial Instructions • Reservation of Powers and Scheme of Delegation • Fraud Policy • Response Plan • Code of Practice on openness in the NHS • International Financial Reporting Standards • NHS Capital Investment Manual • NHS TDA Capital regime and Investment business case approvals guidance for NHS Trusts • TDA Accountability Framework for NHS Trust Boards

Version Control:		
Issue:	Description of changes:	Date:
1.0	Standing Orders (with effect from 1 April 2008)	February 2008
2.0	Standing Orders (with effect from 1 April 2009)	February 2009
3.0	Standing Orders (with effect from 1 April 2010)	March 2010
4.0	Standing Orders (with effect from 1 April 2011)	March 2011
4.1	Standing Orders (with effect from July 2012)	July 2012
4.2	Standing Orders (With effect from September 2013)	August 2013
4.3	Added note to front page (November 2014)	November 2014
4.4		March 2015
4.5	Amended front page and extended review date	August 2015

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SECTION A

INTERPRETATION AND DEFINITIONS FOR STANDING ORDERS AND STANDING FINANCIAL INSTRUCTIONS

Save as otherwise permitted by law, at any meeting the Chairman of the Trust shall be the final authority on the interpretation of Standing Orders (on which they should be advised by the Chief Executive or Secretary to the Board).

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

"Accountable Officer" means the NHS Officer responsible and accountable to parliament for funds entrusted to the Trust. The officer shall be responsible for ensuring the proper stewardship of public funds and assets in accordance with the requirements of HM Treasury guidance Managing Public Money (May 2012). For this Trust it shall be the Chief Executive.

"ADO / ADNS" means Associate Director of Operations (ADO) or Associate Director for Nursing Services

"Associate Member" means a person appointed to perform specific statutory and non-statutory duties which have been delegated by the Trust Board for them to perform and these duties have been recorded in an appropriate Trust Board minute or other suitable record.

"Board" means the Chairman, officer and non-officer members of the Trust collectively as a body.

"Budget" means a resource, expressed in financial terms, proposed by the Board for the purpose of carrying out, for a specific period, any or all of the functions of the Trust.

"Budget holder", "Budget Manager" or "Cost Centre Manager" means the director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation.

"CCG" means Clinical Commissioning Group, responsible for commissioning many NHS funded services under the Health and Social Care Act 2012

"Chairman of the Board (or Trust)" is the person appointed by the Secretary of State for Health to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression "the Chairman of the Trust" shall be deemed to include the Vice-Chairman of the Trust if the Chairman is absent from the meeting or is otherwise unavailable.

"Chief Executive" means the chief officer of the Trust.

"Commissioning" means the process for determining the need for and for obtaining the supply of healthcare and related services by the Trust within available resources.

"Committee" means a committee or sub-committee created and appointed by the Trust.

"Committee members" means persons formally appointed by the Board to sit on or to chair specific committees.

"Contracting and procuring" means the systems for obtaining the supply of goods, materials, manufactured items, services, building and engineering services, works of construction and maintenance and for disposal of surplus and obsolete assets.

"Director" means Executive or Non Executive Director of the Board as the context permits. Member in relation to the Board does not include its Chairman.

"Executive Director" means a member of the Trust who is either an officer of the Trust or is to be treated as an officer by virtue of regulation 1(3) (i.e. the Chairman of the Trust or any person nominated by such a Committee for appointment as a Trust member).

"Finance Director" means the Chief Financial Officer of the Trust.

"Funds held on trust" shall mean those funds which the Trust holds on date of incorporation, receives on distribution by statutory instrument or chooses subsequently to accept under powers derived under S.90 of the NHS Act 1977, as amended. Such funds may or may not be charitable.

"Membership, Procedure and Administration Arrangements Regulations" means NHS Membership and Procedure Regulations (SI 1990/2024) and subsequent amendments.

"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 Standing Orders and Standing Financial Instructions.

"Non-Executive Director" means a member of the Trust who is not an officer of the Trust and is not to be treated as an officer by virtue of regulation 1(3) of the Membership, Procedure and Administration Arrangements Regulations.

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

"Senior Manager" means an officer holding a senior managerial or senior clinical role with management responsibilities. For this Trust this includes Directors and Associate Directors and their direct reports and Clinical Directors and Consultants.

"SFIs" means Standing Financial Instructions.

"SOs" means Standing Orders.

"TDA" means Trust Development Authority, which monitors the performance of NHS Trusts and supports their journey towards Foundation Trust status

"TME" means the Trust Management Executive which is the senior management committee of the Trust, is the Trust's designated risk management committee, and reports to the Trust Board

"Trust" means Maidstone and Tunbridge Wells NHS Trust.

"Trust Secretary" means a person appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the Chairman and monitor the Trust's compliance with the law, Standing Orders, and Department of Health guidance.

"Vice-Chairman" means the Non Executive Director appointed by the Board to take on the Chairman's duties if the Chairman is absent for any reason.

SECTION B – STANDING ORDERS

1. INTRODUCTION

1.1 Statutory Framework

The Maidstone and Tunbridge Wells NHS Trust (the Trust) is a statutory body which came into existence on 14th February 2000 under The Maidstone and Tunbridge Well NHS Trust (Establishment) Order 2000 No 237, (the Establishment Order).

- 1.1.1 The principal places of business of the Trust are: Maidstone Hospital, Hermitage Lane, Maidstone, Kent, ME16 9QQ and the Tunbridge Wells Hospital at Pembury, Tonbridge Road, Pembury, Tunbridge Wells, Kent, TN2 4QJ.
- 1.1.2 NHS Trusts are governed by Act of Parliament, mainly the National Health Service Act 1977 (NHS Act 1977), the National Health Service and Community Care Act 1990 (NHS and CC Act 1990) as amended by the Health Authorities Act 1995 and the Health Act 1999. The Trust is required to meet the regulatory requirements laid down in the Health and Social Care Act 2009.
- 1.1.3 The functions of the Trust are conferred by this legislation.
- 1.1.4 As a statutory body, the Trust has specified powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable as well as to the Secretary of State for Health.
- 1.1.5 The Trust also has statutory powers under Section 28A of the NHS Act 1977, as amended by the Health Act 1999, to fund projects jointly planned with local authorities, voluntary organisations and other bodies.
- 1.1.6 The Code of Accountability requires the Trust to adopt Standing Orders for the regulation of its proceedings and business. The Trust must also adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals.
- 1.1.7 The Trust will also be bound by such other statutes and legal provisions which govern the conduct of its affairs.

1.2 NHS Framework

- 1.2.1 In addition to the statutory requirements the Secretary of State through the Department of Health issues further directions and guidance. These are normally issued under cover of a circular or letter.
- 1.2.2 The Code of Accountability requires that, inter alia, Boards draw up a schedule of decisions reserved to the Board, and ensure that management

arrangements are in place to enable responsibility to be clearly delegated to senior executives (a scheme of delegation). The code also requires the establishment of audit and remuneration committees with formally agreed terms of reference. The Codes of Conduct makes various requirements concerning possible conflicts of interest of Board members.

- 1.2.3 The Code of Practice on Openness in the NHS sets out the requirements for public access to information on the NHS.

1.3 Delegation of Powers

The Trust has powers to delegate and make arrangements for delegation. The Standing Orders set out the detail of these arrangements. Under the Standing Order relating to the Arrangements for the Exercise of Functions (SO 5) the Trust is given powers to "make arrangements for the exercise, on behalf of the Trust of any of their functions by a committee, sub-committee or joint committee appointed by virtue of Standing Order 4 or by an officer of the Trust, in each case subject to such restrictions and conditions as the Trust thinks fit or as the Secretary of State may direct". Delegated Powers are covered in a separate document (Reservation of Powers to the Board and Delegation of Powers). (See Section 1.8 and Appendix 2 of the Corporate Governance Framework Manual.) This document has effect as if incorporated into the Standing Orders. Delegated Powers are covered in a separate document entitled – 'Reservation of Powers and Scheme of Delegation' and have effect as if incorporated into the Standing Orders and Standing Financial Instructions.

1.4 Integrated Governance

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

2. THE TRUST BOARD: COMPOSITION OF MEMBERSHIP, TENURE AND ROLE OF MEMBERS

2.1 Composition of the Membership of the Trust Board

In accordance with the Membership, Procedure and Administration Arrangements regulations the composition of the Board shall be:

2.1.1 The Chairman of the Trust (Appointed by the TDA Appointments function);

2.1.2 Up to 5 non-officer Non Executive (appointed by the TDA Appointments function);

2.1.3 Up to 5 officer members (but not exceeding the number of non-officer members). For this Trust this currently includes:

- the Chief Executive;
- the Finance Director;
- the Medical Director;
- the Chief Nurse
- The Chief Operating Officer

The Trust shall have not more than 11 and not less than 8 members (unless otherwise determined by the Secretary of State for Health and set out in the Trust's Establishment Order or such other communication from the Secretary of State).

2.1.4 The Trust may confer on senior staff the title "Director" as an indication of their corporate or senior leadership responsibility within the Trust. Such additional Directors will not have the voting rights of statutory directors.

2.1.5 The Trust may appoint Associate Non Executive Directors, in a non voting capacity, to provide additional expertise to the Trust Board.

2.2 Appointment of Chairman and Non Executive Directors of the Trust

2.2.1 Appointment of the Chairman and Non Executive of the Trust - Paragraph 4 of Schedule 5A to the 1977 Act, as inserted by the Health Act 1999, provides that the Chairman is appointed by the Secretary of State, but otherwise the appointment and tenure of office of the Chairman and Non Executive are set out in the Membership, Procedure and Administration Arrangements Regulations.

2.3 Terms of Office of the Chairman and Non Executive Directors

2.3.1 The regulations setting out the period of tenure of office of the Chairman and Non Executive Directors and for the termination or suspension of office of the Chairman and Non Executive Directors are contained in Sections 2 to 4 of the Membership, Procedure and Administration Arrangements and Administration Regulations.

2.4 Appointment and Powers of Vice-Chairman

- 2.4.1 Subject to Standing Order 2.4 (2) below, the Chairman and Non Executive Directors of the Trust may appoint one of their numbers, who is not also an Executive Director, to be Vice-Chairman, for such period, not exceeding the remainder of his term as a Director of the Trust, as they may specify on appointing him.
- 2.4.2 Any member so appointed may at any time resign from the office of Vice-Chairman by giving notice in writing to the Chairman. The Chairman and Non Executive may thereupon appoint another member as Vice-Chairman in accordance with the provisions of Standing Order 2.4 (1).
- 2.4.3 Where the Chairman of the Trust has died or has ceased to hold office, or where they have been unable to perform their duties as Chairman owing to illness or any other cause, the Vice-Chairman shall act as Chairman until a new Chairman is appointed or the existing Chairman resumes their duties, as the case may be; and references to the Chairman in these Standing Orders shall, so long as there is no Chairman able to perform those duties, be taken to include references to the Vice-Chairman.

2.5 Joint Members

- 2.5.1 Where more than one person is appointed jointly to a post mentioned in regulation 2(4)(a) of the Membership, Procedure and Administration Arrangements Regulations those persons shall count for the purpose of Standing Order 2.1 as one person.
- 2.5.2 Where the office of a member of the Board is shared jointly by more than one person:
- (a) either or both of those persons may attend or take part in meetings of the Board;
 - (b) if both are present at a meeting they should cast one vote if they agree;
 - (c) in the case of disagreements no vote should be cast;
 - (d) the presence of either or both of those persons should count as the presence of one person for the purposes of Standing Order 3.11 Quorum.

2.6 Patient and Public Involvement Forum

- 2.6.1 Section 242 of the National Health Service Act 2006 requires NHS organisations to make arrangements to involve and consult patients and the public in:
- (a) planning of the provision of services.

- (b) the development and consolidation of proposals for changes in the way those services are provided, and
- (c) decisions to be made by the NHS organization affecting the operation of services.

2.6.2 The Trust will work with relevant partners to meet the legal requirements set out above

2.7 Role of Board Directors

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

2.7.1 Executive Directors

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

2.7.2 Chief Executive

The Chief Executive shall be responsible for the overall performance of the executive functions of the Trust. He/she is the Accountable Officer for the Trust and shall be responsible for ensuring the discharge of obligations under Financial Directions and in line with the requirements of the Accountable Officer Memorandum for Trust Chief Executives.

2.7.3 Finance Director

The Finance Director shall be responsible for the provision of financial advice to the Trust and to its members and for the supervision of financial control and accounting systems. He/she shall be responsible along with the Chief Executive for ensuring the discharge of obligations under relevant Financial Directions.

2.7.4 Non-Executive Directors

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

2.7.5 Chairman

The Chairman shall be responsible for the operation of the Board and chair all Board meetings when present. The Chairman has certain delegated

executive powers. The Chairman must comply with the terms of appointment and with these Standing Orders.

The Chairman shall liaise with the TDA Appointments function over the appointment of Non-Executive Directors and once appointed shall take responsibility either directly or indirectly for their induction, their portfolios of interests and assignments, and their performance.

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

2.8 Corporate role of the Board

- 2.8.1 All business shall be conducted in the name of the Trust.
- 2.8.2 All funds received in trust shall be held in the name of the Trust as corporate trustee.
- 2.8.3 The powers of the Trust established under statute shall be exercised by the Board meeting in public session except as otherwise provided for in Standing Order No. 3.
- 2.8.4 The Board shall define and regularly review the functions it exercises on behalf of the Secretary of State.

2.9 Schedule of Matters reserved to the Board and Scheme of Delegation

- 2.9.1 The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These powers and decisions are set out in the 'Schedule of Matters Reserved to the Board' and shall have effect as if incorporated into the Standing Orders. Those powers which it has delegated to officers and other bodies are contained in the Scheme of Delegation.

2.10 Lead Roles for Board Directors

- 2.10.1 The Chairman will ensure that the designation of Lead roles or appointments of Board members as required by the Department of Health or as set out in any statutory or other guidance will be made in accordance with that guidance or statutory requirement (e.g. appointing a Lead Board Member with responsibilities for Infection Control or Child Protection Services etc.).

3. MEETINGS OF THE TRUST

3.1 Calling meetings

- 3.1.1 Ordinary meetings of the Board shall be held at regular intervals at such times and places as the Board may determine.
- 3.1.2 The Chairman of the Trust may call a meeting of the Board at any time.
- 3.1.3 One third or more members of the Board may requisition a meeting in writing. If the Chairman refuses, or fails, to call a meeting within seven days of a requisition being presented, the members signing the requisition may forthwith call a meeting.

3.2 Notice of Meetings and the Business to be transacted

- 3.2.1 Before each meeting of the Board a notice specifying the business proposed to be transacted shall be delivered to every member by electronic transmission, or sent by post to the usual place of residence of each member, so as to be available to members at least three clear days before the meeting. The notice shall be signed by the Chairman or by an officer authorised by the Chairman to sign on their behalf. Want of service of such a notice on any member shall not affect the validity of a meeting.
- 3.2.2 In the case of a meeting called by members in default of the Chairman calling the meeting, the notice shall be signed by those members.
- 3.2.3 No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under Standing Order 3.6.
- 3.2.4 A member desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman at least 10 clear days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 10 days before a meeting may be included on the agenda at the discretion of the Chairman.
- 3.2.5 Before each meeting of the Board a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed at the Trust's principal offices at least three clear days before the meeting, (required by the Public Bodies (Admission to Meetings) Act 1960 Section 1 (4) (a)).

3.3 Agenda and Supporting Papers

- 3.3.1 The Agenda will be sent to members 5 days before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be despatched no later than three clear days before the meeting, save in emergency.

3.4 Petitions

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

3.5 Notice of Motion

- 3.5.1 Subject to the provision of Standing Orders 3.7 'Motions: Procedure at and during a meeting' and 3.8 'Motions to rescind a resolution', a member of the Board wishing to move a motion shall send a written or electronic transmission notice to the Chief Executive who will ensure that it is brought to the immediate attention of the Chairman.
- 3.5.2 The notice shall be delivered at least 5 clear days before the meeting. The Chief Executive shall include in the agenda for the meeting all notices so received that are in order and permissible under governing regulations. This Standing Order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

3.6 Emergency Motions

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

3.7 Motions: Procedure at and during a meeting

3.7.1 Who may propose

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

3.7.2 Contents of motions

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

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

3.7.3 Amendments to motions

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

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

If there are a number of amendments, they shall be considered one at a time. When a motion has been amended, the amended motion shall become the substantive motion before the meeting, upon which any further amendment may be moved.

3.7.4 Rights of reply to motions

a) Amendments

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

b) Substantive/original motion

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

3.7.5 Withdrawing a motion

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

3.7.6 Motions once under debate

- a) When a motion is under debate, no motion may be moved other than:
- an amendment to the motion;
 - the adjournment of the discussion, or the meeting;
 - that the meeting proceed to the next business;
 - that the question should be now put;
 - the appointment of an 'ad hoc' committee to deal with a specific item of business;
 - that a member/director be not further heard;
 - a motion under Section 1 (2) or Section 1 (8) of the Public Bodies (Admissions to Meetings) Act 1960 resolving to exclude the public, including the press (see Standing Order 3.17).
- b) In those cases where the motion is either that the meeting proceeds to the 'next business' or 'that the question be now put' in the interests of objectivity these should only be put forward by a member of the Board who has not taken part in the debate and who is eligible to vote.
- c) If a motion to proceed to the next business or that the question be now put, is carried, the Chairman should give the mover of the substantive motion under debate a right of reply, if not already exercised. The matter should then be put to the vote.

3.8 Motion to Rescind a Resolution

- 3.8.1 Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the member who gives it and also the signature of three other members, and before considering any such motion of which notice shall have been given, the Trust Board may refer the matter to any appropriate Committee or the Chief Executive for recommendation.
- 3.8.2 When any such motion has been dealt with by the Trust Board it shall not be competent for any director/member other than the Chairman to propose a motion to the same effect within six months. This Standing Order shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the Chief Executive.

3.9 Chairman of meeting

- 3.9.1 At any meeting of the Trust Board the Chairman, if present, shall preside. If the Chairman is absent from the meeting, the Vice-Chairman if present, shall preside.
- 3.9.2 If the Chairman and Vice-Chairman are absent, another Non-Executive Director present at the meeting shall choose who shall preside.

3.10 Chairman's ruling

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

3.11 Quorum

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

3.12 Voting

- 3.12.1 Save as provided in Standing Orders 3.13 - Suspension of Standing Orders and 3.14 - Variation and Amendment of Standing Orders, every question put to a vote at a meeting shall be determined by a majority of the votes of members present and voting on the question. In the case of an equal vote, the person presiding (ie: the Chairman of the meeting shall have a second, and casting vote.
- 3.12.2 At the discretion of the Chairman all questions put to the vote shall be determined by oral expression or by a show of hands, unless the Chairman directs otherwise, or it is proposed, seconded and carried that a vote be taken by paper ballot.
- 3.12.3 If at least one third of the members present so request, the voting on any question may be recorded so as to show how each member present voted or did not vote (except when conducted by paper ballot).
- 3.12.4 If a member so requests, their vote shall be recorded by name.
- 3.12.5 In no circumstances may an absent member vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.12.6 A manager who has been formally appointed to act up for an Officer Member during a period of incapacity or temporarily to fill an Executive Director vacancy shall be entitled to exercise the voting rights of the Officer Member.
- 3.12.7 A manager attending the Trust Board meeting to represent an Officer Member during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Officer Member. An Officer's status when attending a meeting shall be recorded in the minutes.
- 3.12.8 For the voting rules relating to joint members see Standing Order

3.13 Suspension of Standing Orders

- 3.13.1 Except where this would contravene any statutory provision or any direction made by the Secretary of State or the rules relating to the Quorum (SO 3.11), any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the whole number of the members of the Board are present (including at least one member who is an Officer Member of the Trust and one member who is not) and that at least two-thirds of those members present signify their agreement to such suspension. The reason for the suspension shall be recorded in the Trust Board's minutes.
- 3.13.2 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chairman and members of the Trust.

- 3.13.3 No formal business may be transacted while Standing Orders are suspended.
- 3.13.4 The Audit Committee shall review every decision to suspend Standing Orders.

3.14 Variation and amendment of Standing Orders

- 3.14.1 These Standing Orders shall not be varied except in the following circumstances:
- upon a notice of motion under Standing Order 3.5;
 - upon a recommendation of the Chairman or Chief Executive included on the agenda for the meeting;
 - that two thirds of the Board members are present at the meeting where the variation or amendment is being discussed, and that at least half of the Trust's Non-Officer members vote in favour of the amendment;
 - providing that any variation or amendment does not contravene a statutory provision or direction made by the Secretary of State.

3.15 Record of Attendance

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

3.16 Minutes

- 3.16.1 The minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting where they shall be signed by the person presiding at it.
- 3.16.2 No discussion shall take place upon the minutes except upon their accuracy, the actions arising, or where the Chairman considers discussion appropriate.

3.17 Admission of public and the press

- 3.17.1 **Admission and exclusion on grounds of confidentiality of business to be transacted**

The public and representatives of the press may attend all meetings of the Trust, but shall be required to withdraw upon the Trust Board request 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', Section 1 (2), Public Bodies (Admission to Meetings) Act 1960

3.17.2 **General disturbances**

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

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

Section 1(8) Public Bodies (Admissions to Meetings) Act 1960.

3.17.3 **Business proposed to be transacted when the press and public have been excluded from a meeting**

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

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

3.17.4 **Use of Mechanical or Electrical Equipment for Recording or Transmission of Meetings**

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

3.18 **Observers at Trust meetings**

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

4. APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES

4.1 Appointment of Committees

Subject to such directions as may be given by the Secretary of State for Health, the Trust Board may appoint committees of the Trust.

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

4.2 Joint Committees

4.2.1 Joint committees may be appointed by the Trust by joining together with one or more other Trust or health service organisation. This may comprise Board members or other officers from the respective organisations.

4.2.2 Any committee or joint committee appointed under this Standing Order may, subject to such directions as may be given by the Secretary of State or the Trust or other health bodies in question, appoint sub-committees consisting wholly or partly of Board members, officer, or other representatives as agreed by the respective organisations.

4.3 Applicability of Standing Orders and Standing Financial Instructions to Committees

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

4.4 Terms of Reference

4.4.1 Each such committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board), as the Board shall decide and shall be in accordance with any legislation and regulation or direction issued by the Secretary of State. Such terms of reference shall have effect as if incorporated into the Standing Orders.

4.5 Delegation of powers by Committees to Sub-Committees

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

4.6 Approval of Appointments to Committees

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

4.7 Appointments for Statutory functions

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

4.8 Committees established by the Trust Board

The principal committees, sub-committees, and joint-committees constituted by the Board are listed below.

Committees will meet at least quarterly. Exact frequencies are set out in individual committee terms of reference which are available from the Trust Management office and from the Trust Website

4.8.1 Audit and Governance Committee

In line with the requirements of the NHS Audit Committee Handbook, NHS Codes of Conduct and Accountability, and the Higgs report (2003), an Audit Committee has been established and constituted to provide the Trust Board with an independent and objective review on its processes for financial management, governance, risk and compliance with laws, guidance, and regulations governing the NHS. The Terms of Reference will be approved by the Trust Board and reviewed on a periodic basis.

The Board has agreed that the quorum will be two non-executive directors. The Chairman of the Trust Board can not be a member of the Audit Committee.

The Committee is authorised by the Trust Board to investigate any activity within its terms of reference. The duties of the Committee can be categorised as follows:

- Government, Risk Management and Internal Control: to review the establishment and maintenance of an effective processes of integrated governance, assurance, risk management, and the associated internal

control, across the whole of the organisation's activities (both clinical and non-clinical), that supports the achievement of the organisation's objectives.

- Internal Audit: to ensure that there is an effective internal audit function established by management that meets mandatory NHS Internal audit Standards and provides appropriate independent assurance to the audit Committee, Chief Executive and Board.
- External Audit: to review the work and findings of the External Auditor and consider the implications and management's responses to their work.
- Other Assurance Functions:
 - to review the findings of other significant assurance functions, both internal and external to the organisation, and consider the implications to the governance of the organisation. These will include reviews by Department of Health Arm's Length Bodies or Regulators/Inspectors (e.g. Care quality Commission, NHS Litigation Authority, etc.), professional bodies with responsibility for the performance of staff or functions (e.g. Royal Colleges, accreditation bodies, etc.)
 - to review the work of other committees within the organisation, whose work can provide relevant assurance to the Audit Committee's own scope of work. This will particularly include the Trust Management Executive Committee which is the Trust's designated risk management committee responsible for ensuring the effective applications of assurance and risk management structures, systems and processes.

Representatives of the following organisations attend Audit Committee meetings

- Internal Auditors (South Coast Audit)
- Local Counter fraud
- External Auditors (Grant Thornton)

4.8.2 Remuneration Committee

In line with the requirements of the NHS Codes of Conduct and Accountability, and the Higgs report, a Remuneration Committee has been established and constituted.

The Remuneration Committee is comprised of the Trust Chair and all other Non-Executive Director's, with the Chief Executive and the Director of Strategy and Workforce in attendance as appropriate.

Quoracy requires Remuneration Committee Chair plus two Non executive Directors.

Key responsibilities are:

- Make recommendation to Board with respect of the appointment of Executive Directors and other staff appointed on Trust contracts (i.e. Staff not employed under national terms and conditions of service);
- Make such recommendation to the Board on the remuneration, allowances and terms of service of Executive Directors and other staff appointed on Trust contracts;
- Monitor and evaluate the performance of Executive Directors and other staff appointed on Trust contracts;
- Advise on and oversee appropriate contractual arrangements for such staff including the proper calculation and scrutiny of termination payments taking account of such national guidance as is appropriate. For all Trust staff any non-contractual severance payment or payment of a novel or unusual nature must be first reviewed and agreed by the Committee. If the Committee is unable to meet then authority will be delegated to the Chairman and Chief Executive jointly to formally agree. Any such payment must then be reviewed at the next Remuneration Committee.
- Review other significant employment terms changes, e.g. “Agenda for change”, consultant contract, for approval by the Board.

4.8.3 Charitable Funds Committee

In line with its role as a corporate trustee for any funds held in trust, either as charitable or non charitable funds, the Trust Board has established a Charitable Funds Committee to ensure that the Trust’s charitable funds are managed efficiently and effectively in accordance with the directions of the Charity Commission and the wishes of donors.

A Non-Executive Director will be appointed as Chair of the Committee and another Non-Executive Director appointed as Deputy Chair. Other Non-Executive Directors may attend, and fully participate in, meetings of the Committee. In addition the Finance Director, the Chief Executive Officer, and other Executive Directors may attend as members of the committee.

The provisions of this Standing Order must be read in conjunction with Standing Order 2.8 and Standing Financial Instructions 29.

The Committee acts on behalf of the Corporate Trustee and will:

- Develop an annual plan
- Approve policies and procedures
- Approve and monitor fundraising and investment strategies and campaigns
- Seek assurances that all income is secured and that expenditure is within the purpose of the funds (where stated) and is used to best effect given the priorities and values of the Trust

- Ensure compliance of all statutory legislation Charity regulations and seek assurance on compliance
- Ensure there is adequate provision for the independent monitoring of investment activity
- Receive all relevant internal and external audit reports, and ensure compliance with recommendations
- Agree approval and authorisation limits for expenditure from charitable funds
- Consider applications for support

4.8.4 Finance Committee

The Trust Board has established a Finance Committee to provide the Trust Board with assurance on the effectiveness of financial performance/management and informatics in the Trust.

A Non-Executive Director will be appointed as Chair of the Committee and another Non-Executive Director appointed as Deputy Chair. Other Non-Executive Directors may attend, and fully participate in, meetings of the Committee. In addition the Chief Executive Officer, the Finance Director and other Executive Directors may attend meeting as members of the Committee.

The Committee has the following areas of responsibility:

- Financial Management: review of financial plans and strategies, the budgetary control framework, financial performance against plan and the key financial performance indicators
- Treasury Management: approve treasury management policies and plans, external funding arrangements within delegated authority, benchmarks for measuring performance and review investment and borrowing policy and performance against the relevant benchmarks. Also to ensure proper safeguards are in place for security of the Trust's funds and review the cash flow and balance sheet of the Trust
- Capital Expenditure: review the Trust's capital programme ensuring its alignment to strategic priorities and to review major or contentious business cases for capital and service development
- Financial Governance, Reporting, Systems and Function: review and assess arrangements for financial governance, agree financial policies, monitor financial reporting to Trust Board meets the requirements of the Board and individual members, review the effectiveness of financial systems, assess the capacity and effectiveness of the finance function and ensure development plans are in place to meet the current and future requirements of the Trust including the requirements of Foundation Trust status. Also to assess the organisational awareness and adherence to financial management disciplines and controls and promote congruence between quality patient care and the achievement of financial objectives.

- Review strategies and plans and ensure they are consistent with the Trust's overall vision and strategic goals
- Review plans and proposals for major development and investment and advise the Board on its alignment to the Trust's overall vision and strategy as well as the financial implications and risks of the proposals
- Assure itself on (i) the identification of principal risks associated with the financial performance and financial management of the Trust, and information technology, (ii) the effective management of those risks and (iii) the escalation to the Board of matters of significance. Also to ensure that the Board Assurance Framework record of these risks and actions is comprehensive and up to date.

4.8.5 **Quality and Safety Committee**

The Quality and Safety Committee is constituted to oversee the quality of care and patient service.

A Non-Executive Director will be appointed as Chair of the Committee and another Non-Executive Director appointed as Deputy Chair.

Other Non-Executive Directors may attend, and fully participate in, meetings of the Committee. In addition the Chief Nurse, the Chief Operating Officer, the Medical Director, the Director of Infection Prevention and Control, the Head of Quality and Governance, the Risk and Compliance Manager and Divisional Directors or designated deputies (ADO or ADNS) are members of the committee.

The Committee will:

- provide assurance to the Trust Board that risks to achieving excellence in the quality of care and clinical operation of are being effectively understood, managed and mitigated
- identify significant risks relating to Quality and Safety that the Trust Board needs to consider in detail.
- ensure that the Trust Risk Management Strategy and Policy is implemented consistently across the Trust. Approve, review and monitor the implementation of other relevant clinical and patient service policies and procedures. As a committee of the Board the committee will also ratify policies and procedures approved by it's sub-committees.
- monitor and ensure the effectiveness of quality systems at a Corporate and Directorate level in order to evaluate their impact and consequences.
- identify significant risk to clinical services that requires the development of business cases and/or processes by the Trust Management Executive, and/or sub-committees.

- ensure quality and patient safety issues are appropriately recorded on the Trust Risk Register and Assurance Framework and appropriately mitigate and manage such risks and issues.
- ensure that Directorates identify and are managing their own quality and patient service risk issues effectively.
- receive reports about patient experience through complaints, claims and incidents made against the Trust in order to be assured of the Trusts good reputation and standing.
- receive reports to monitor against action plans arising from Serious Untoward Incidents, complaints and claims to share learning and to ensure that actions have been completed.
- receive progress reports on compliance with the NHSLA Risk Management standards.
- receive, review and comment on reports from the Standards, Health and Safety, Infection Control, Information Communication and Technology and Safeguarding Committees.
- ensure the Trust and its officers are working in partnership with external agencies (Clinical Commissioning Groups, Trust Development Authority, Department of Health and so on) for the effective management of risk across the health economy.

The following sub-committees report to the Quality and Safety Committee through their respective chairs or representatives:

- Health and Safety Committee
- Standards Committee
- CLIP Group
- Safeguarding Adults Committee
- Safeguarding Children Committee.
- Infection Prevention and Control Committee (The IPCC is also a sub-committee of the Board and some issues will be reported directly to the Board)

4.8.6 **Workforce Committee**

The Workforce Committee is constituted by the Trust Board to oversee workforce development, planning and performance. The Committee will work to assure the Board that the Trust has the necessary strategies, policies and procedures in place to ensure a high performing and motivated workforce that is supporting business success.

A Non-Executive Director will be appointed as Chair of the Committee and another Non-Executive Director appointed as Deputy Chair. Other Non-Executive Directors may attend, and fully participate in, meetings of the Committee. In addition the Director of Strategy and Workforce, the Chief Executive Officer, the Finance Director the Chief Operating Officer, The

Medical Director and the Chief Nurse are members of the committee. Other Executive Directors may attend as members.

The Committees monitors and advises on:

- Workforce planning and development, including alignment with business planning and development
- Equality and diversity in the workforce
- Employee relations trends and issues, e.g. discipline, grievance, bullying/harassment, sickness absence, disputes;
- Occupational health and wellbeing in the workforce
- External developments, best practice and industry trends in employment practice;
- The performance management system;
- Staff recruitment, retention and satisfaction;
- Terms and conditions of employment, including reward;
- Organisation development, organisational change management and leadership development in the Trust;
- Training and development activity in the Trust including prioritisation;

4.8.7 Patient Experience Committee

The Committee is established to provide to the Board of Directors with assurance, and encourage development, related to the quality and safety of patient services and the patient experience.

In addition to Non-Executive Directors and Executive Directors, this Committee is attended by senior matrons and senior nurses, the Head of Quality and Governance, external community groups and special interest groups.

The Committee meets quarterly and the objectives of the committee are:

- To positively promote patient and public partnership by valuing the contribution of each Committee Member and organisation represented .
- To provide the perspective of patients and the public and to present the patients' and public's perception of services within the Trust at Trust Committees.
- To liaise with Patient Information and Letter Groups (PILG) regarding key patient information concerns and to support and influence the development of patient information within the Trust.
- To review, discuss, and influence Trust Policies as they develop and change.
- To develop a group of individuals of diverse backgrounds from whom the Trust can seek input in respect to service or policy change.

- To work in partnership with the Trust in determining priorities for patient surveys and local patient feedback methods.
- To consider and review the findings of national surveys and to oversee the improvements against the in-patient survey action plan.
- To provide an arena for public and patient representatives on the Committee to meet members of the Trust Board and other officers.
- To contribute to an annual report to the Trust Board on the development and implementation of the Trust's Patient and Public Partnership strategy.
- Assure itself on (i) the identification of principal risks associated with the experience of patients, (ii) the effective management of those risks and (iii) the escalation to the Board or Quality and Safety Committee of matters of significance. Also to ensure that the Board Assurance Framework record of these risks and actions is comprehensive and up to date.

4.8.8 **Foundation Trust Committee**

The Foundation Trust Committee is a task and finish group established to oversee the Trust's preparations to submit a successful application to become a NHS Foundation Trust. The Trust Board Chairman chairs this committee and membership comprises all Board members. The Committee meets as required during the year.

The Committee develops, monitors and advises the Board on:

- Board governance and assurance
- Quality governance
- Board development
- Membership development
- The Monitor and TDA Oversight process

4.8.9 **Trust Management Executive (TME)**

The TME is the senior management committee within the Trust and reports to the Trust Board. The purpose of the TME is to oversee and direct:

- the effective operational management of the Trust including achievement of statutory duties, standards, targets and other obligations,
- the delivery of safe, high quality, patient-centred care,
- the development of Trust strategy, culture and policy, and
- the identification, mitigation and escalation of assurance and risk issues as the designated integrated risk management committee of the Trust

The Committee comprises Executive Directors and Clinical Directors and other officer of the Trust, or external experts, may be invited to attend the meeting by the Chair. The TME is chaired by the Chief executive, or his designated deputy.

4.8.10 **Other Committees**

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

4.8.11 **Deputising Officers**

An Officer in attendance for an Executive Director may count towards the quorum, if the Chairman of the Committee is advised and agrees in advance of the commencement of the meeting. It will be recorded in the minutes of the meeting that the Officer is deputising for the Executive Director and forms part of the committee's quorum for that meeting only.

4.8.12 **Confidential Proceedings**

A director or officer of the Trust shall not disclose a matter considered by the Trust Board or a Committee in confidence without its permission until the Board or Committee has considered the matter in public or has resolved to make the matter public.

5. ARRANGEMENTS FOR THE EXERCISE OF TRUST FUNCTIONS BY DELEGATION

5.1 Delegation of Functions to Committees, Officers or other bodies

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

5.1.2 Section 16B of the NHS Act 1977 allows for regulations to provide for the functions of Trust's to be carried out by third parties. In accordance with The Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000 the functions of the Trust may also be carried out in the following ways:

- (i) by another Trust;
- (ii) jointly with any one or more of the following: NHS trusts, TDA or CCG;
- (iii) by arrangement with the appropriate Trust or CCG, by a joint committee or joint sub-committee of the Trust and one or more other health service bodies;
- (iv) in relation to arrangements made under S63(1) of the Health Services and Public Health Act 1968, jointly with one or more TDA, NHS Trusts or CCG.

5.1.3 Where a function is delegated by these Regulations to another Trust, then that Trust or health service body exercises the function in its own right; the receiving Trust has responsibility to ensure that the proper delegation of the function is in place. In other situations, i.e. delegation to committees, sub-committees or officers, the Trust delegating the function retains full responsibility.

5.2 Emergency Powers and urgent decisions

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

5.3 Delegation to Committees

5.3.1 The Board shall agree from time to time to the delegation of executive powers to be exercised by other committees, or sub-committees, or joint-committees, which it has formally constituted in accordance with directions issued by the Secretary of State. The constitution and terms of

reference of these committees, or sub-committees, or joint committees, and their specific executive powers shall be approved by the Board in respect of its sub-committees.

- 5.3.2 When the Board is not meeting as the Trust in public session it shall operate as a committee and may only exercise such powers as may have been delegated to it by the Trust in public session.

5.4 Delegation to Officers

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

5.5 Delegation to HIS

- 5.5.1 Delegation to the Kent and Medway Health Informatics Service – The Board recognises that the role of the Trust as host authority for the Kent and Medway Health Informatics Service (HIS) is to provide a legal framework in which the HIS can operate for the benefit of its Partner organisations. As such, the Board also recognises that day to day responsibility for managing the operations of the HIS should rest with the Management Board of the HIS, supervised by the HIS Partnership Board. Therefore, in so far as the HIS operates within the legal framework provided by the Trust, the Board delegates its powers over the authorisation and control of the day to day functions of the HIS to the HIS Management Board.
- 5.5.2 References to the Board and the Chief Executive in these Standing Orders, the ‘Standing Financial Instructions’ and the ‘Reservation of Powers to the Board and Delegation of Powers’ shall, in the context of the HIS, be read as referring to the HIS Management Board and the HIS Director, respectively. However, in SO 8.4 ‘SIGNATURE OF DOCUMENTS’ references to the Chief Executive and Board shall

continue to refer to the Trust's Chief Executive and Board. In addition, any agreement or other document which is required to be executed as a deed must be approved and properly executed in the name of the Trust in accordance with section 12 of these Standing Orders.

5.6 Schedule of Matters Reserved to the Trust and Scheme of Delegation of powers

- 5.6.1 The arrangements made by the Board as set out in the "Schedule of Matters Reserved to the Board" and "Scheme of Delegation" of powers shall have effect as if incorporated in these Standing Orders.

5.7 Duty to report non-compliance with Standing Orders and Standing Financial Instructions

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

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

6.1 Policy statements: general principles

The Trust Board will from time to time agree and approve Policy statements/ procedures which will apply to all or specific groups of staff employed by Maidstone and Tunbridge Wells NHS Trust. The decisions to approve such policies and procedures will be recorded in an appropriate Trust Board minute and will be deemed where appropriate to be an integral part of the Trust's financial governance documents incorporating the Standing Orders, Standing Financial Instructions and Reservation of Powers.

6.2 Specific Policy statements

Notwithstanding the application of SO 6.1 above, these Standing Orders must be read in conjunction with the following Trust Policy statements that will each have effect as if incorporated in these Standing Orders:

- Standing Financial Instructions (SFIs)
- Reservation of Powers and Scheme of Delegation
- Standards of Business Conduct and Conflicts of Interest Policy
- Board Code of Conduct
- Disciplinary and Appeals Procedures adopted by the Trust both of which shall have effect as if incorporated in these Standing Orders.
- Trust Procurement Policies

6.3 Review of Standing Orders

Standing orders shall be regularly reviewed by the Trust. The requirement for review extends to all documents having the effect as if incorporated into the Standing Orders.

6.4 Specific guidance

Notwithstanding the application of SO 6.1 above, these Standing Orders must be read in conjunction with the following guidance and any other issued by the Secretary of State for Health:

Caldicott Guardian 1997;
Human Rights Act 1998;
Freedom of Information Act 2000.
Code of Conduct for NHS Managers 2002
Data Protection Act 1998
Bribery Act 2010

6.5 Circulation of Standing Orders

It is the duty of the Finance Director to ensure that existing Directors, Officers and all new appointees are notified of and understand their responsibilities within Standing Orders (SOs), Standing Financial Instructions (SFIs), Reservation of Powers and Scheme of Delegation. Updated copies shall be made available, via the Trust intranet, to staff designated by the Chief Executive.

7. DUTIES AND OBLIGATIONS OF BOARD MEMBERS/DIRECTORS AND SENIOR MANAGERS UNDER THESE STANDING ORDERS

7.1 Declaration of Interests

7.1.1 Requirements for Declaring Interests and applicability to Board Members

- i) The NHS Code of Accountability requires Trust Board Members and Senior Managers to declare interests which are relevant and material to the NHS Board of which they are a member. All existing Board members and Senior Managers should declare such interests. Any Board members or senior Managers appointed subsequently should do so on appointment.
- II) In relation to the duties and obligations outlined in section 7 'senior manager' is defined as an officer holding a senior managerial or senior clinical role with management responsibility.

7.1.2 Interests which are relevant and material

- (i) Interests which should be regarded as "relevant and material" are:
 - a) Directorships, including Non-Executive Directorships held in private companies or PLCs (with the exception of those of dormant companies);
 - b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
 - c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
 - d) A position of Authority in a charity or voluntary organisation in the field of health and social care;
 - e) Any connection with an organisation that could be viewed as a direct competitor to the Trust in the field of health and social care
 - f) Any connection with a voluntary or other organisation contracting for NHS services;
 - g) Research funding/grants that may be received by an individual or their department;
 - h) Interests in pooled funds that are under separate management.
 - i) Any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Trust, including but not limited to lenders or banks.

- (ii) Any member of the Trust Board who comes to know that the Trust has entered into or proposes to enter into a contract in which he/she or any person connected with him/her (as defined in Standing Order 7.3 below and elsewhere) has any pecuniary interest, direct or indirect, the Board member shall declare his/her interest by giving notice in writing of such fact to the Trust as soon as practicable.

7.1.3 Advice on Interests

If Board members have any doubt about the relevance of an interest, this should be discussed with the Chairman of the Trust or with the Trust's Company Secretary.

International Financial Reporting Standard No 24 (issued by the International Accounting Standards Board) specifies that influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.

7.1.4 Recording of Interests in Trust Board minutes

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

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

7.1.5 Publication of declared interests in Annual Report

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

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

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

7.2 Register of Interests

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

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

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

7.3 Exclusion of Chairman and Members in proceedings on account of pecuniary interest

7.3.1 Definition of terms used in interpreting 'Pecuniary' interest

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

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

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

- a) he/she, or a nominee of his/her, is a member of a company or other body (not being a public body), with which the contract is made, or to be made or which has a direct pecuniary interest in the same, or
- b) he/she is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.

iv) Exception to Pecuniary interests

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

- a) neither he/she or any person connected with him/her has any beneficial interest in the securities of a company of which he/she or such person appears as a member, or
- b) any interest that he/she or any person connected with him/her may have in the contract is so remote or insignificant that it

cannot reasonably be regarded as likely to influence him/her in relation to considering or voting on that contract, or

- c) those securities of any company in which he/she (or any person connected with him/her) has a beneficial interest do not exceed £5,000 in nominal value or one per cent of the total issued share capital of the company or of the relevant class of such capital, whichever is the less.

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

7.3.2 Exclusion in proceedings of the Trust Board

- (i) Subject to the following provisions of this Standing Order, if the Chairman or a member of the Trust Board has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust Board at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- (ii) The Secretary of State may, subject to such conditions as he/she may think fit to impose, remove any disability imposed by this Standing Order in any case in which it appears to him/her in the interests of the National Health Service that the disability should be removed. (See SO 7.3.3 on the 'Waiver' which has been approved by the Secretary of State for Health).
- (iii) The Trust Board may exclude the Chairman or a member of the Board from a meeting of the Board while any contract, proposed contract or other matter in which he/she has a pecuniary interest is under consideration.
- (iv) Any remuneration, compensation or allowance payable to the Chairman or a Member by virtue of paragraph 11 of Schedule 5A to the National Health Service Act 1977 (pay and allowances) shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- (v) This Standing Order applies to a committee or sub-committee and to a joint committee or sub-committee as it applies to the Trust and applies to a member of any such committee or sub-committee (whether or not he/she is also a member of the Trust) as it applies to a member of the Trust.

7.3.3 Waiver of Standing Orders made by the Secretary of State for Health

(1) Power of the Secretary of State to make waivers

Under regulation 11(2) of the NHS (Membership and Procedure Regulations SI 1999/2024 (“the Regulations”), there is a power for the Secretary of State to issue waivers if it appears to the Secretary of State in the interests of the health service that the disability in regulation 11 (which prevents a chairman or a member from taking part in the consideration or discussion of, or voting on any question with respect to, a matter in which he has a pecuniary interest) is removed. A waiver has been agreed in line with sub-sections (2) to (4) below.

(2) Definition of ‘Chairman’ for the purpose of interpreting this waiver

For the purposes of paragraph 7.3.3.(3) (below), the “relevant chairman” is

- (a) at a meeting of the Trust, the Chairman of that Trust;
- (b) at a meeting of a Committee –
 - (i) in a case where the member in question is the Chairman of that Committee, the Chairman of the Trust;
 - (ii) in the case of any other member, the Chairman of that Committee.

(3) Application of waiver

A waiver will apply in relation to the disability to participate in the proceedings of the Trust on account of a pecuniary interest.

It will apply to:

- (i) A member of the Maidstone and Tunbridge Wells NHS Trust (“the Trust”), who is a healthcare professional, within the meaning of regulation 5(5) of the Regulations, and who is providing or performing, or assisting in the provision or performance, of –
 - (a) services under the National Health Service Act 1977; or
 - (b) services in connection with a pilot scheme under the National Health Service Act 1997;

for the benefit of persons for whom the Trust is responsible.

- (ii) Where the ‘pecuniary interest’ of the member in the matter which is the subject of consideration at a meeting at which he is present:-

- (a) arises by reason only of the member's role as such a professional providing or performing, or assisting in the provision or performance of, those services to those persons;
- (b) has been declared by the relevant chairman as an interest which cannot reasonably be regarded as an interest more substantial than that of the majority of other persons who:–
 - (i) are members of the same profession as the member in question,
 - (ii) are providing or performing, or assisting in the provision or performance of, such of those services as he provides or performs, or assists in the provision or performance of, for the benefit of persons for whom the Trust is responsible.
- (4) Conditions which apply to the waiver and the removal of having a pecuniary interest

The removal is subject to the following conditions:

- (a) the member must disclose his/her interest as soon as practicable after the commencement of the meeting and this must be recorded in the minutes;
- (b) the relevant chairman must consult the Chief Executive before making a declaration in relation to the member in question pursuant to paragraph 7.3.3 (2) (b) above, except where that member is the Chief Executive;
- (c) in the case of a meeting of the Trust:
 - (i) the member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded;
 - (ii) may not vote on any question with respect to it.
- (d) in the case of a meeting of the Committee:
 - (i) the member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded;
 - (ii) may vote on any question with respect to it; but
 - (iii) the resolution which is subject to the vote must comprise a recommendation to, and be referred for approval by, the Trust Board.

7.4 Standards of Business Conduct

7.4.1 Trust Policy and National Guidance

All Trust staff and members of the Trust Board must comply with the Trust's Standards of Business Conduct and Conflicts of Interest Policy and the national guidance contained in HSG(93)5 on 'Standards of Business Conduct for NHS staff' (see annex B) and the Bribery Act 2010.

A Trust Board Code of Conduct has been established to promote the highest possible standards of conduct and behavior in all matters pertaining to the Board. This code explicitly refers to the Nolan Standards of public life (www.public-standards.gov.uk)

7.4.2 Interest of Officers in Contracts

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

7.4.3 Canvassing of and Recommendations by Members in Relation to Appointments

- i) Canvassing of members of the Trust or of any Committee of the Trust directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.
- ii) Members of the Trust shall not solicit for any person any appointment under the Trust or recommend any person for such appointment; but this paragraph of this Standing Order shall not preclude a member from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.
- iii) Informal discussions outside appointment panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.

7.4.4 Relatives of Members or Officers

- i) Candidates for any staff appointment under the Trust shall, when making an application, disclose in writing to the Trust whether they are related to any member or the holder of any office under the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him liable to instant dismissal.
- ii) The Chairman and every member and officer of the Trust shall disclose to the Trust Board any relationship between himself and a candidate of whose candidature that member or officer is aware. It shall be the duty of the Chief Executive to report to the Trust Board any such disclosure made.
- iii) On appointment, members (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Trust whether they are related to any other member or holder of any office under the Trust.
- iv) Where the relationship to a member of the Trust is disclosed, the Standing Order headed 'Exclusion of Chairman and members in proceedings on account of pecuniary interest' (SO 7.3) shall apply.
- v) In order to protect the interests of both members of staff and the Trust, a confidential register is to be maintained by the Chief Executive or such senior officer as he may designate, listing all employees who have any pecuniary activities outside of their employment with the Trust, including such activities as other employment, directorships, consultant work, etc. It shall be the duty of all staff falling within these and similar categories to declare such activities and they will also be entitled to see what information is recorded against their name. The list may be limited to Board and Executive Management Team members and to those Senior Managers and other staff who occupy positions where they are able to influence the awarding of contracts.

7.5 ACCEPTANCE OF GIFTS BY STAFF AND LINK TO STANDARDS OF BUSINESS CONDUCT and BRIBERY ACT 2010 (See Trust Code of Conduct Policy and SO Annex B and overlap with SFI 12.2.6(d) and 21)

7.5.1 The Finance Director shall ensure that all staff are made aware of the Trust 'Code of Conduct policy' on acceptance of gifts and other benefits in kind by staff. This policy is deemed to be an integral part of these Standing Orders and the Standing Financial Instructions and follows the guidance contained in the Department of Health circular HSG (93) 5 'Standards of Business Conduct for NHS Staff' (Annex B) and also takes into account the requirements of the Bribery Act 2010 and associated Government guidance.

7.5.2 The guidance also refers to and permits small gifts and rewards to employees that may be given voluntarily where, within the course of their employment, have produced innovative work of significant benefit to the Trust and NHS as a whole.

7.5.3 Employees are responsible for settling any income tax liability with the Inland Revenue that may result.

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

8.1 Custody of Seal

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

8.2 Sealing of Documents

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

8.3 Register of Sealing

The Chief Executive shall keep a register in which he/she, or another manager of the Authority authorised by him/her, shall enter a record of the sealing of every document.

8.4 Signature of documents

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

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

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

9. MISCELLANEOUS

9.1 Joint Finance Arrangements (see overlap with SFI No. 12.3)

The Board may confirm contracts to purchase from a voluntary organisation or a local authority using its powers under Section 28A of the NHS Act 1977. The Board may confirm contracts to transfer money from the NHS to the voluntary sector or the health related functions of local authorities where such a transfer is to fund services to improve the health of the local population more effectively than equivalent expenditure on NHS services, using its powers under Section 28A of the NHS Act 1977, as amended by section 29 of the Health Act 1999.

APPENDIX ONE

Process Requirements

1.0 Implementation and Awareness

- 1.1 Once approved the Document Lead or Author will send this policy/procedural document to the Clinical Governance Assistant who will publish it on the Trust intranet.
- 1.2 All staff will have access to a copy of the policy and procedure through the Trust's intranet site. A monthly table of Trust publications will be produced by the Clinical Governance Assistant; this will be published on the Bulletin Board (Trust intranet) under "Trust Publications", and a notification email circulated Trust wide by the COMMS team.
- 1.3 On receipt of the Trust wide Bulletin Board notification all managers should ensure that their staff members are aware of the new publications.

2.0 Review

The Standing Orders will be reviewed annually.

3.0 Archiving

The Trust intranet retains all superseded files in an archive directory in order to maintain document history.

APPENDIX TWO

CONSULTATION ON: Standing Orders

Consultation process – Use this form to ensure your consultation has been adequate for the purpose.

Please return comments to: Head of Financial Services (wmaher2@nhs.net)

By date: Friday 6th September

Name: Name: List key staff appropriate for the document under consultation. Select from the following:	Date sent	Date reply received	Modification suggested? Y/N	Modification made? Y/N
Local Counter Fraud Specialist	09/08/13			
Chief Internal Auditor	09/08/13	06/09/13	Y	Y
Director of Finance	09/08/13	10/09/13	N	N
Deputy Director of Finance	09/08/13	12/09/13	Y	Y
Executive and other Directors	09/08/13	TC 28/08/13	Y	Y
Non Executive Directors	09/08/13	ST 05/09/13	Y	Y
Risk Manager	09/08/13			
Head of Information Governance	09/08/13			
Human Resources Business Partner	09/08/13	12/09/13	N	N
Head of Finance Systems	09/08/13	12/09/13	Y	Y
Head of SLA and Income	09/08/13	12/09/13	Y	Y
Head of Financial Management	09/08/13	12/09/13	Y	Y
Head of Procurement	09/08/13			
Financial Services Manager	09/08/13	11/09/13	N	N
Financial Accountant	09/08/13	11/09/13	N	N
Technical Team Leader	09/08/13	11/09/13	N	N
Debt Management Team Leader	09/08/13	11/09/13	Y	Y
Payables Team Leader	09/08/13	11/09/13	Y	Y
Associate Directors	09/08/13	SC 19/08/13	N	N
HIS Managing Director	09/08/13			
Head of R&D – CLRN	09/08/13			
Head of Quality and Governance	09/08/13			
EME Services Manager	09/08/13			
Capital Planning Manager	09/08/13	12/09/13	Y	Y
Local Security Management Specialist	09/08/13			
Staff side Representative	09/08/13			
The role of those staff being consulted upon as above is to ensure that they have shared the policy for comments with all staff within their sphere of responsibility who would be able to contribute to the development of the policy.				

APPENDIX THREE

Equality Impact Assessment

In line with race, disability and gender equalities legislation, public bodies like MTW are required to assess and consult on how their policies and practices affect different groups, and to monitor any possible negative impact on equality.

The completion of the following Equality Impact Assessment grid is therefore mandatory and should be undertaken as part of the policy development and approval process. Please consult the Equality and Human Rights Policy on the Trust intranet, for details on how to complete the grid.

Please note that completion is mandatory for all policy development exercises. A copy of each Equality Impact Assessment must also be placed on the Trust's intranet.

Title of Policy or Practice	Standing Orders
What are the aims of the policy or practice?	Financial Governance document
Identify the data and research used to assist the analysis and assessment	
Analyse and assess the likely impact on equality or potential discrimination with each of the following groups.	Is there an adverse impact or potential discrimination (yes/no). If yes give details.
Males or Females	No
People of different ages	No
People of different ethnic groups	No
People of different religious beliefs	No
People who do not speak english as a first language	Yes (May have difficulty in understanding document, support / interpretation can be provided on request)
People who have a physical disability	Yes (Sight impaired may have difficulty in reading document, a braille version can be provided on request)
People who have a mental disability	Yes (May have difficulty in understanding document, support can be provided on request)
Women who are pregnant or on maternity leave	No
Single parent families	No
People with different sexual orientations	No
People with different work patterns (part time, full time, job share, short term contractors, employed, unemployed)	No
People in deprived areas and people from different socio-economic groups	No
Asylum seekers and refugees	No
Prisoners and people confined to closed institutions, community offenders	No
Carers	No
If you identified potential discrimination is it minimal and justifiable and therefore does not require a stage 2 assessment?	N/A
When will you monitor and review your EqIA?	At the same time as the Standing Orders document (annually)
Where do you plan to publish the results of your Equality Impact Assessment?	As Appendix 3 of the Standing Orders documents on the Trust

Annex A

STANDING ORDERS - MONETARY VALUES

Para. 7.3.1 (iv)c Register of Interests for the Board and Committee members

A declaration in the Trusts Register of Interests should be made if Board members and senior managers relevant interests exceed £5,000 in nominal value or one per cent of the total issued share

Para 6.2 PROCEDURES REQUIRED WITHIN STANDING ORDERS

- Standards of Business Conduct and Conflicts of Interest Policy
- Disciplinary and Appeals Procedures
- Trust Procurement Policies

Annex B

Standards of Business conduct for NHS staff (reproduced from HSG (93)5)

Part A: Brief summary of the main provisions of the Prevention of Corruption Acts 1906 and 1916

Acceptance of gifts by way of Inducements or rewards

1. Under the Prevention of Corruption Acts, 1906 and 1916, it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for:

- Doing, or refraining from doing, anything in their official capacity; or
- Showing favour or disfavour to any person in their official capacity.

2. Under the Prevention of Corruption Act 1916, any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves the contrary.

Part B: General policy guidelines

Introduction

1. These guidelines, which are intended by the NHSME to be helpful to all NHS employers (I) and their employees, re-state and reinforce the guiding principles previously set out in Circular HM (62) 21 (now cancelled), relating to the conduct of business in the NHS.

Responsibility of NHS employers

2. NHS employers are responsible for ensuring that these guidelines are brought to the attention of all employees; also that machinery is put in place for ensuring that they are effectively implemented.

Responsibility of NHS staff

3. It is the responsibility of staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties. This primary responsibility applies to *all NHS Staff*, i.e. those who commit NHS resources directly (e.g. by the ordering of goods) or those who do so indirectly (e.g. by the prescribing of medicines). A further example would be staff who may have an interest in a private nursing home and who are involved with the discharge of patients to residential facilities.

Guiding principle in conduct of public business

4. It is a long established principle that public sector bodies, which include the NHS, must be impartial and honest in the conduct of their business, and that their employees should remain beyond suspicion. It is also an offence under the Prevention of Corruption Acts 1906 and 1916 for an employee corruptly to accept any inducement or reward for doing, or refraining from doing anything, in his or her official capacity, or corruptly showing favour, or disfavour, in the handling of contracts (see PART A).

Staff will need to be aware that a breach of the provisions of these Acts renders them liable to prosecution and may also lead to loss of their employment and superannuation rights in the NHS

Principles of conduct in the NHS

5. NHS staff are expected to:

- Ensure that the interest of patients remains paramount at all times;
- be impartial and honest in the conduct of their official business;
- use the public funds entrusted to them to the best advantage of the service, always ensuring value for money.

6. It is also the responsibility of staff to ensure that they do **not**:

- abuse their official position for personal gain or to benefit their family or friends;
- seek to advantage or further private business or other interests, in the course of their official duties.

Implementing the guiding principles

Casual gifts

7. Casual gifts offered by contractors or others, e.g. at Christmas time, may not be in any way connected with the performance of duties so as to constitute an offence under the Prevention of Corruption Acts. Such gifts should nevertheless be politely but firmly declined. Articles of low intrinsic value such as diaries or calendars, or small tokens of gratitude from patients or their relatives, need not necessarily be refused. In cases of doubt staff should either consult their line manager or politely decline acceptance.

Hospitality

8. Modest hospitality provided it is normal and reasonable in the circumstances, e.g. lunches in the course of working visits, may be acceptable, though it should be similar to the scale of hospitality which the NHS as an employer would be likely to offer.

9. Staff should decline all other offers of gifts, hospitality or entertainment. If in doubt they should seek advice from their line manager.

Declaration of interests

10. NHS employers need to be aware of all cases where an employee, or his or her close relative or associate, has a controlling and/or significant financial interest in a business (including a private company, public sector organisation, other NHS employer and/or voluntary organisation), or in any other activity or pursuit, which may compete for an NHS contract to supply either goods or services to the employing authority.

11. All NHS staff should therefore declare such interests to their employer, either on starting employment or on acquisition of the interest, in order that it may be known to and in no way promoted to the detriment of either the employing authority or the patients whom it serves.

12. One particular area of potential conflict of interest that may directly affect patients is when NHS staff hold a self-beneficial interest in private care homes or hostels. While it is for staff to declare such interests to their employing authority, the employing authority has a responsibility to introduce whatever measures it considers necessary to ensure that its interests and those of patients are adequately safeguarded. This may for example take the form of a contractual obligation on staff to declare any such interests. Advice on professional conduct issued by the General Medical Council recommends that when a doctor refers a patient to a private care home or hostel in which he or she has an interest, the patient must be informed of that interest before referral is made.

13. In determining what needs to be declared, employers and employees will wish to be guided by the principles set out in paragraph 5 above.

14. NHS employers should:

- ensure that staff are aware of their responsibility to declare relevant interests (perhaps by including a clause to this effect in staff contracts)
- consider keeping registers of all such interests and making them available for inspection by the public.
- develop a local policy, in consultation with staff and local staff interests, for implementing this guidance. This may include the disciplinary action to be taken if an employee fails to declare a relevant interest, or is found to have abused his or her official position, or knowledge, for the purpose of self-benefit, or that of family or friends.

Preferential treatment in private transactions

15. Individual staff must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of their NHS employer. (This does not apply to concessionary agreements negotiated with companies by NHS management, or by recognised staff interests on behalf of all staff – for example, NHS staff benefits schemes.)

Contracts

16. All staff who are in contact with suppliers and contractors (including external consultants), and in particular those who are authorised to sign Purchase Orders, or place contracts for goods, materials or services, are expected to adhere to professional standards of the kind set out in the Ethical Code of the Institute of Purchasing and Supply (IPS), reproduced at PART E.

Favouritism in awarding contracts

17. Fair and open competition between prospective contractors or suppliers for NHS contracts is a requirement of NHS Standing Orders and of EC Directives on Public Purchasing for Works and Supplies. This means that:

- no private, public or voluntary organisation or company which may bid for NHS business should be given any advantage over its competitors, such as advance notice of NHS requirements. This applies to all potential contractors, whether or not there is a relationship between them and the NHS employer, such as a long-running series of previous contracts.
- each new contract should be awarded solely on merit, taking into account the requirements of the NHS and the ability of the contractors to fulfil them.

18. NHS employers should ensure that no special favour is shown to current or former employees or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in a senior or relevant managerial capacity. Contracts may be awarded to such businesses where they are won in fair competition against other tenders, but scrupulous care must be taken to ensure that the selection process is conducted impartially, and that staff that are known to have a relevant interest play no part in the selection.

Warnings to potential contractors

19. NHS employers will wish to ensure that all invitations to potential contractors to tender for NHS business include a notice warning tenderers of the consequences of engaging in any corrupt practices involving employees of public bodies.

Outside employment

20. NHS employees are advised not to engage in outside employment that may conflict with their NHS work, or be detrimental to it. They are advised to tell their NHS employing authority if they think they may be risking a conflict of interest in this area: the NHS employer will be responsible for judging whether the interests of patients could be harmed, in line with the principles in paragraph 5 above. NHS employers may wish to consider the preparation of local guidelines on this subject.

Private practice

21. Consultants (and associate specialists) employed under the Terms and Conditions of Service of Hospital Medical and Dental Staff are permitted to carry out private practice in NHS hospitals subject to the conditions outlined in the handbook "A Guide to the Management of Private Practice in the NHS". (See also PM (79) 11). Consultants who have signed new contracts with Trusts will be subject to the terms applying to private practice in those contracts.

22. Other grades may undertake private practice or work for outside agencies, providing they do not do so within the time they are contracted to the NHS, and they observe the conditions in paragraph 20 above. All hospital doctors are entitled to fees for other work outside their NHS contractual duties under "Category 2" (paragraph 37 of the TCS of Hospital Medical and Dental staff), e.g. examinations and reports for life insurance purposes. Hospital doctors and dentists in training should not undertake locum work outside their contracts where such work would be in breach of their contracted hours. Career grade medical and dental staff employed by NHS Trusts may agree terms and conditions different from the National Terms and Conditions of Service.

Rewards for Initiative

23. NHS employers should ensure that they are in a position to identify potential intellectual property rights (IPR), as and when they arise, so that they can protect and exploit them properly, and thereby ensure that they receive any rewards or benefits (such as royalties) in respect of work commissioned from third parties, or work carried out by their employees in the course of their NHS duties. Most IPR are protected by statute; e.g. patents are protected under the Patents Act 1977 and copyright (which includes software programmes) under the Copyright Designs and Patents Act 1988. To achieve this, NHS employers should build appropriate specifications and provisions into the contractual arrangements that they enter into *before* the work is commissioned, or begins. They should always seek legal advice if in any doubt in specific cases.

24. With regard to patents and inventions, in certain defined circumstances the Patents Act gives *employees a right* to obtain some reward for their efforts, and employers should see that this is effected. Other rewards may be given voluntarily to employees who within the course of their employment have produced innovative work of outstanding benefit to the NHS. Similar rewards should be voluntarily applied to other activities such as giving lectures and publishing books and articles.

25. In the case of collaborative research and evaluative exercises with manufacturers, NHS employers should see that they obtain a fair reward for the input they provide. If such an exercise involves additional work for an NHS employee outside that paid for by the NHS employer under his or her contract of employment, arrangements should be made for some share of any rewards or benefits to be passed on to the employee(s) concerned from the collaborating parties. Care should however be taken that involvement in this type of arrangement with a manufacturer does not influence the purchase of other supplies from that manufacturer.

Commercial Sponsorship for attendance at courses and conferences

26. Acceptance by staff of commercial sponsorship for attendance at relevant conferences and courses is acceptable, but only where the employee seeks permission in advance and the employer is satisfied that acceptance will not compromise purchasing decisions in any way.

27. On occasions when NHS employers consider it necessary for staff advising on the purchase of equipment to inspect such equipment in operation in other parts of the country (or exceptionally, overseas), employing authorities will themselves want to consider meeting the cost, so as to avoid putting in jeopardy the integrity of subsequent purchasing decisions.

Commercial sponsorship of posts "linked deals"

28. Pharmaceutical companies, for example, may offer to sponsor, wholly or partially, a post for an employing authority. NHS employers should not enter into such arrangements, unless it has been made abundantly clear to the company concerned that the sponsorship will have no effect on purchasing decisions within the authority. Where such sponsorship is accepted, monitoring arrangements should be established to ensure that purchasing decisions are not, in fact, being influenced by the sponsorship agreement.

Under no circumstances should employers agree to "linked deals" whereby sponsorship is linked to the purchase of particular products or to supply from particular sources.

"Commercial in-confidence"

29. Staff should be particularly careful of using, or making public, internal information of a "commercial in-confidence" nature, particularly *if its disclosure would prejudice the principle of a purchasing system based on fair competition. This principle applies whether private competitors or other NHS providers are concerned*, and whether or not disclosure is prompted by the expectation of personal gain (see paragraphs 16 and 18 above and Part E).

30. However, NHS employers should be careful about adopting a too restrictive view on this matter. It should certainly not be a cause of excessive secrecy on matters which are not strictly commercial per se. For example, the term "commercial in confidence" should not be taken to include information about service delivery and activity levels, which should be publically available. Nor should it inhibit the free exchange of data for medical audit purposes, for example, subject to the normal rules governing patient confidentiality and data protection. In all circumstances the overriding consideration must be the best interests of patients.

Part E: Institute of Purchasing and Supply - Ethical Code (Reproduced by kind permission of IPS)

Introduction

1. The code set out below was approved by the Institute's Council on 26 February 1977 and is binding on IPS members.

Precepts

2. Members shall never use their authority or office for personal gain and shall seek to uphold and enhance the standing of the Purchasing and Supply profession and the Institute by:

- a) maintaining an unimpeachable standard of integrity in all their business relationships both inside and outside the organisations in which they are employed;
- b) fostering (the highest possible standards of professional competence amongst those for whom they are responsible;
- c) optimising the use of resources [or which they are responsible to provide the maximum benefit to their employing organisation;
- d) complying both with the letter and the spirit of;
 - i. the law of the country in which they practise;
 - ii. such guidance on professional practice as may be issued by the Institute from time to time;
 - iii. contractual obligations;
- e) ejecting any business practice that might reasonably be deemed improper.

Guidance

3. In applying these precepts, members should follow the guidance set out below:

- a) Declaration of interest. Any personal interest that may impinge or might reasonably be deemed by others to impinge on a member's impartiality in any matter relevant to his or her duties should be declared.
- b) Confidentiality and accuracy of information. The confidentiality of information received in the course of duty should be respected and should never be used for personal gain; information given in the course of duty should be true and fair and never designed to mislead.
- c) Competition. While bearing in mind the advantages to the member's employing organisation of maintaining a continuing relationship with a supplier, any relationship which might, in the long term, prevent the effective operation of fair competition, should be avoided.
- d) Business Gifts. Business gifts other than items of very small intrinsic value such as business diaries or calendars should not be accepted.
- e) Hospitality. Modest hospitality is an accepted courtesy of a business relationship. However, the recipient should not allow him or herself to reach a position whereby he or she might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality; the frequency and scale of hospitality accepted should not be significantly greater than the recipient's employer would be likely to provide in return.
- f) when it is not easy to decide between what is and is not acceptable in terms of gifts or hospitality, the offer should be declined or advice sought from the member's superior.