

**MEETING OF THE SOUTH TEES HOSPITALS NHS FOUNDATION TRUST
BOARD OF DIRECTORS TO BE HELD IN PUBLIC ON TUESDAY 3 SEPTEMBER
2019 AT 1.00 PM IN THE BOARD ROOM, MURRAY BUILDING, JAMES COOK
UNIVERSITY HOSPITAL**

AGENDA

ITEM	PURPOSE	LEAD	FORMAT
1. Patient Story	Discussion	Director of Nursing	Presentation
CHAIR'S BUSINESS			
2. Welcome and Introductions	Information	Chair	Verbal
3. Apologies for Absence	Information	Chair	Verbal
4. Quorum and Declarations of Interest	Information	Chair	ENC 1
5. Minutes of the last meetings held on 2 July 2019	Approval	Chair	ENC 2
6. Matters Arising	Review	Chair	ENC 3
7. Chairman's report	Information	Chair	Verbal
8. Chief Executive's report	Information	Chief Executive	Verbal
QUALITY, SAFETY, PERFORMANCE AND FINANCE			
9. Quality, Safety, Performance and Finance Exception Report	Discussion	Deputy Chief Executive/ Director of Nursing and Quality/ Medical Directors/ Director of Finance	ENC 4
10. Healthcare-associated Infection Monthly Report	Information	Director of Nursing & Quality	ENC 5
11. Safe Staffing Monthly Report	Information	Director of Nursing & Quality	ENC 6
12. Learning from Deaths Report (Mortality)	Information	Medical Director	ENC 7
13. Annual Board Report and Statement of	Approval	Medical Director	ENC 8

ITEM	PURPOSE	LEAD	FORMAT
14. Compliance Freedom to Speak up	Information	Director of Nursing & Quality	ENC 9
15. South Tees Group Structure	Information	Director of Finance	ENC 10

GOVERNANCE AND ASSURANCE

16. South Tees Institute of Learning, Research and Innovation LLP	Approval	Director of Finance	ENC 11
17. CQC action plan	Information	Director of Nursing & Quality	ENC 12
18. Constitution	Approval	Chair	ENC 13
19. ICS Memorandum of Understanding	Approval	Chair	ENC 14
20. Chair's Logs from Board Committee Meetings <ul style="list-style-type: none"> • Quality Assurance Committee • Finance & Investment Committee • Workforce Committee 	Discussion	Chairs	ENC 15
21. Any Other Business		Chair	Verbal
22. Risks to be added to the Risk Register	Discussion	Chair	Verbal
23. Reflections on Meeting	Discussion	Chair / All	Verbal

24. DATE OF NEXT MEETING

The next meeting of Board of Directors will take place on Tuesday 5 November 2019

25. **Exclusion to the Public – To invite the Press and Public to leave the meeting because of the confidential nature of the business about to be transacted (pursuant to Section 1(2) of the Public Bodies (Admission to Meetings) Act 1960)**



South Tees Hospitals
NHS Foundation Trust

Patient Story

Board of Directors

3 September 2019



Excellence in Patient Outcome and Experience

Patient Story

- We received an email from a patient who wanted to provide feedback on her experience of maternity care in the South Tees area. The lady had received antenatal care from the community maternity services and given birth to her daughter earlier this year at the James Cook University Hospital.
- Following the birth she had received care and support in the community from the Health Visitor and the Infant Feeding Lead.
- On the whole the patient's experience of our maternity services is very positive, however, she did encounter a problem with breast feeding and wanted to share this with us so that we could learn from her experience and improve services for other mothers.



Positive feedback

- She was happy with the care she received in the community commenting that the Midwife was warm, confidence inspiring and supportive.
- She stated that the Midwife supporting her during the majority of her labour was outstanding, extremely professional and reassuringly thorough in safeguarding her and her daughter's health.
- She also received outstanding help and advice from the Health Visitor and the Infant Feeding Lead for the Trust. The patient felt these two professionals in particular were an absolute credit to the NHS and made a real difference to her and her daughter.



Areas for improvement

- The patient reported difficulty when breast feeding very early after the birth which she felt were dismissed by the Midwifery team.
- Baby became jaundiced and required 36 hours in an incubator, this was later determined due to dehydration as she was unable to get adequate milk through breast feeding.
- A Midwife suggested that her daughter was having difficulty with feeding at this point and may have a tongue tie, although this was subsequently dismissed by other healthcare professionals.
- An otherwise healthy baby failed to gain weight, she lost weight a week after her birth and did not regain her birth weight for a month.



Areas for improvement

- Following a further six weeks of pain for the patient and further diminishment of her milk supply, she was seen by the Infant Feeding Lead who confirmed that her daughter had a tongue tie.
- There was no evidence documented in the patients healthcare records that there was a discussion regarding a tongue tie between the healthcare professionals whilst she was an inpatient.



Patient suggested improvements

- All infants, especially in cases where the mother reports pain during breastfeeding, should be assessed by a trained professional.
- A protocol should be in place to allow for breastfeeding mothers to be referred to the infant feeding specialist prior to discharge.
- The patient felt that had this been done and there been greater communication and awareness between the Midwifery and Health Visiting service her vital milk supply could have been improved, allowing the patient to breast feed exclusively.



Investigation

On receipt of the feedback an investigation was carried out which identified that:

- There were indicators that the baby was not feeding well in the post natal period of care provided by the midwifery teams.
- We have a specialist midwife for Infant feeding and 10 staff trained to diagnose 'tongue tie'.
- There was a protocol in place which would have generated specialist input if it was appropriately followed.
- Lack of clear documentation of actions and assessments taken.



Action Undertaken

- The staff involved have all received 1:1 training from the Infant Feeding Lead.
- Staff involved have undertaken personal reflection to ensure this does not happen in the future.
- Wider team learning is to clearly document concerns regarding breast feeding and follow the appropriate guidelines and SOP's in these circumstances.
- All Midwifery and support staff receive regular training in relation to infant feeding (which is mandatory) and bespoke teaching as required by the Infant Feeding Lead. This case is has been included in that training.





South Tees Hospitals
NHS Foundation Trust

CQC Inpatient Survey 2018



Excellence in Patient Outcome and Experience

Background and National Context

Number of participants: 76,668 (response rate 45%)

South Tees: 598/1250 (response rate 48%)

Age range: 16 years and older

Time period: patients discharged from hospital during July 2018

Eligibility: patients aged 16 years or older, who had at least one overnight stay

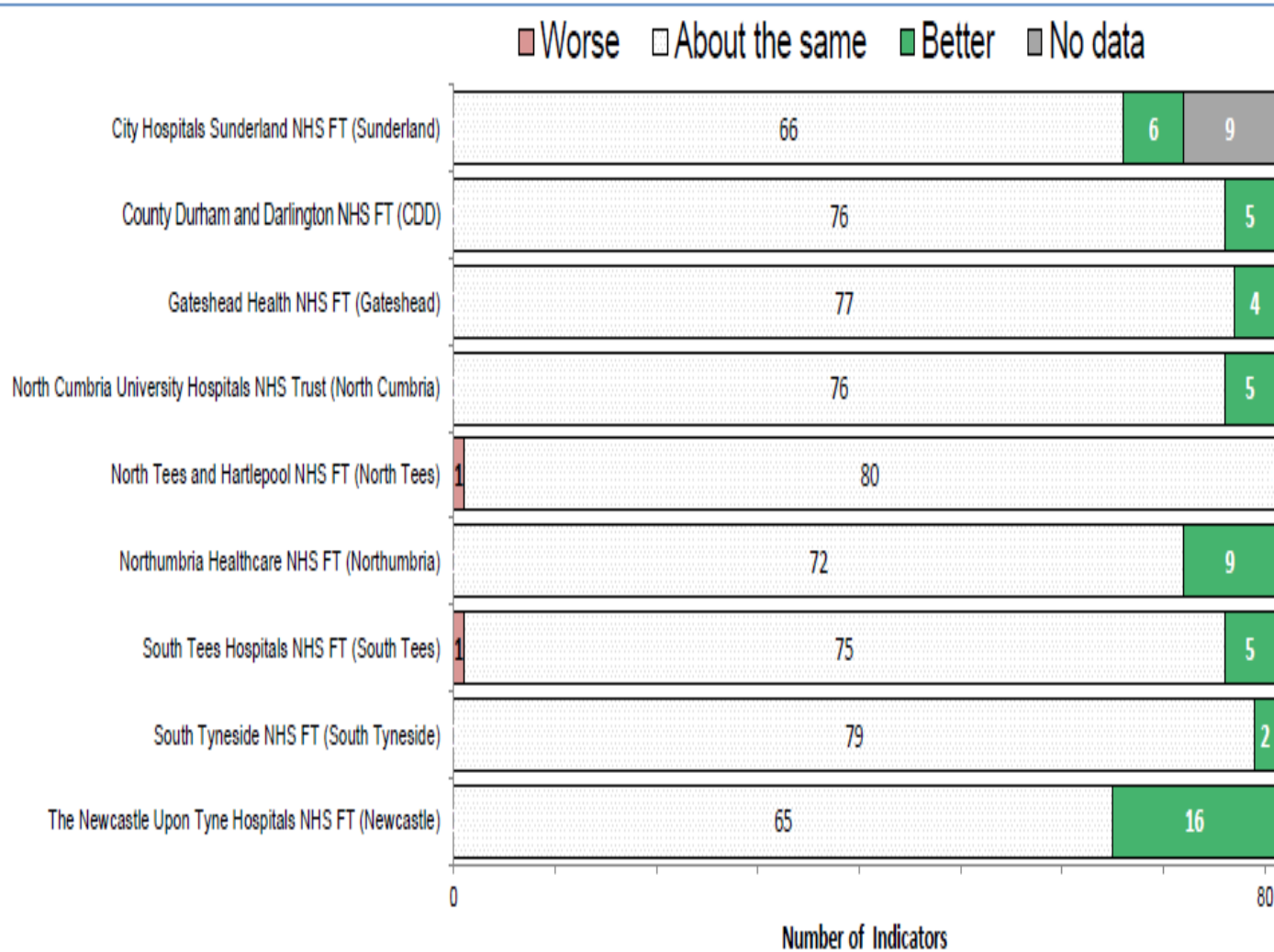
Exclusion: Maternity care / day case patients / private patients

Key Findings for England: The majority of results for the 2018 Adult Inpatient Survey have slightly declined since last year or remained static



Regional and Trust position

Figure 1. Summary of 'Better', 'Worse' and 'About the Same' results by Trust



Key for Figure 1

Figure 1 highlights how many indicators in the 2018 survey are classified as 'Better', 'Worse' or 'About the same' as other Trusts nationally.

■ 'Better' - The trust result is 'better' compared with most other trusts in the survey.

■ 'Worse' - The trust result is 'worse' compared with most other trusts in the survey.

'About the same' - The trust result is 'about the same' as most other trusts in the survey.

No data provided for this indicator.

The CQC's Quality and Methodology report states 'Whilst conducting these final checks, an unusual pattern in one trust's data (RLN; City Hospitals Sunderland NHS FT) was queried and it was discovered that several errors were made in the questionnaire the trust had mailed out.' As a result the CQC decided to exclude a number results for questions from this Trust.

Questions South Tees scored 'better' than most other Trusts

- **Information** - for being given enough **information** on their condition or treatment in A&E
- **Taking medication** - for being able to take **own medication** when needed
- **Acknowledging patients** - for nurses **not talking in front of them**, as if they weren't there
- **Notice of discharge** - for being given enough notice about when they were going to be discharged
- **Home and family situation** - for hospital staff considering their family and home situation when planning their discharge, if this was necessary



Question South Tees scored 'worse' than most other Trusts

- **Advice at discharge** - for being given **written or printed information** about what they should or should not do after leaving hospital



We have deteriorated in 7 questions

- Do you have confidence and trust in the nurses treating you?
- In your opinion, did the members of staff caring for you work well together?
- Afterwards, did a member of staff explain the operation or procedure in a way you could understand?
- Did hospital staff tell you who to contact if you were worried about your condition or treatment after you left hospital?
- During your hospital stay, were you ever asked to give your views on the quality of your care?
- Did you see or were you given any information explaining how to complain to the hospital about the care you received?



Action Planning

- Action plans will be developed and monitored via the Patient Experience Sub Group (reporting to Quality Assurance Committee)
- Aligned to Quality Priorities where appropriate
- Progress will be monitored via the 1000 Voices feedback



Board of Directors	
Agenda item	Agenda item 4, ENC 1
Title of Report	Register of Board's Interests
Date of Meeting	3 September 2019
Presented by	Alan Downey, Chairman
Author	Jackie White, Head of Governance
Previous Committee/Group Review	-
Purpose	Approval <input type="checkbox"/> Decision <input type="checkbox"/> Discussion <input type="checkbox"/> Information <input checked="" type="checkbox"/>
Alignment to Trust's Strategic Objectives	<input checked="" type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience <input checked="" type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care <input checked="" type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future <input checked="" type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice <input checked="" type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability
Alignment to Board Assurance Framework	-
Legal/Regulatory Compliance Requirements (if applicable)	<ul style="list-style-type: none"> • NHS 2006 Act • NHS Improvement • NHS England • Terms and Conditions – Consultants (England) 2003 • The Trust's Constitution
Recommendation(s)	The Board is asked to note the Register of Board's Interests.

Board of Directors Register of Interests

Board Member	Position	Relevant Dates From	to	Declaration Details
Alan Downey	Chairman	1 April 2018	ongoing	Chairman of Maudsley Charity – the Charity is associated with, but independent from, South London Maudsley NHS Foundation Trust
		1 March 2018	ongoing	Wife is Director of PricewaterhouseCoopers working mainly with local government clients in the North of England
		15 April 2014	2 April 2019	Neddown Limited (dissolved company) from 2 April 2019 and (dormant) prior to joining the Trust
Amanda Hullick	Non-executive Director (Deputy Chair)	1 June 2018	ongoing	Husband employed as Supply Chain and Operations Director at Brakes UK (Susco Plc) – company supply to the Friarage Hospital, Northallerton
Maureen Rutter	Non-executive Director (Senior Independent Director)	1996	ongoing	Member of Macmillan Cancer Support
Richard Carter-Ferris	Non-executive Director	1 August 2015	ongoing	Director of Yorkshire Area P2P Club – company generates donations for Yorkshire Air Ambulance
David Heslop	Non-executive Director			No interests declared
Mike Ducker	Non-executive Director	1 December 2017	ongoing	Advisor to UK Government on Chemicals Industry
		1 December 2005	ongoing	Trustee of Greenstones Christian Trust Charity – a Charity working with prisons in Ethiopia
Debbie Reape	Non-executive Director			No interests declared
Siobhan McArdle	Chief Executive	6 May 2016	ongoing	Director of Trust subsidiary company South Tees Healthcare Management Limited (dormant)
		1 November 2015	ongoing	Director of the Academic Health Science Network for the North East and North Cumbria
		1 October 2015	ongoing	PA Consulting (relative has senior management responsibility within the company)
		6 January 2003	ongoing	Director of the Strategy House Limited
Adrian Clements	Medical Director (Urgent and Emergency Care & Friarage Hospital) and Deputy Chief Executive	23 January 2012	ongoing	Director of Clements Medico Legal Consulting Limited
David Chadwick	Medical Director (Specialist and Planned Care)	6 May 2016	ongoing	Director of Trust subsidiary company South Tees Healthcare Management Limited (dormant)
		21 August 2006	ongoing	Member of Team Health LLP (dormant)
Sath Nag	Medical Director (Community Care)			No interests declared
Andrew Owens	Medical Director (Corporate Clinical and Support Services)	May 2018	ongoing	Non-executive Director of Medicor Software Ltd – a data analytics company that provides services to the NHS
		March 2016	ongoing	Director of Niche Medical Ltd – a medical device manufacturing start-up
Gill Hunt	Director of Nursing and Quality			No interests declared
Steven Mason	Director of Finance	1 October 2017	ongoing	Children employed at PricewaterhouseCoopers and Deloitte
		1 September 2018	ongoing	Child employed at Ernst & Young
		13 August 2018	ongoing	HM Property Services Ltd (family company)

Minutes of the meeting of the Board of Directors of South Tees Hospitals NHS Foundation Trust, held in public in the Boardroom, Murray Building, James Cook University Hospital on 2nd July 2019

Present:

Alan Downey	Chairman
Amanda Hullick	Deputy Chairman
Maureen Rutter	Non-executive Director
Richard Carter-Ferris	Non-executive Director
Debbie Reape	Non-executive Director
David Heslop	Non –executive Director
Siobhan McArdle	Chief Executive
Adrian Clement	Deputy Chief Executive & Medical Director for Urgent and Emergency Care & Friarage Hospital
Gill Hunt	Director of Nursing & Quality
David Chadwick	Medical Director for Specialist and Planned Care
Sath Nag	Medical Director for Community Care
Andrew Owens	Medical Director for Corporate & Clinical Services
Steven Mason	Director of Finance

In attendance:

Helen Edwards	Director of Communications
Tracey Evans	PA to Chief Executive (Minute taker)
Yvonne Regan	Head of Midwifery (for agenda item 4.2)
Roaqah Shaher	Staff Side Chairman
Phil Kane	Senior Medical Staff Forum Chairman
Plym Auty	Elected Governor (Hambleton and Richmondshire)
David Smith	Chief Executive of Teesside Hospice
Ian Bennett	Head of Patient Safety & Quality
Adele Blythe	GD Tees Valley Hospital
J Blood	Member of Public
Joanne Pugh	NHSP
Doreen Friedwick	Public
Gerry Ramsden	Union

1. Opening Items

1.1 Welcome and Apologies

The Chairman welcomed staff and members of the public to the Board of Directors meeting held in public. Apologies were received from Mr Mike Ducker, Non-executive Director.

1.2 Declarations of Interest

The Chairman asked the Directors to declare any conflicts of interest pertaining to any agenda items. No interests were declared.

1.3 Minutes of Previous Meeting held on 7th May 2019

The following amendments are required to the minutes of the previous meeting:

- Attendees - Change of spelling for *Roaqah Shafer*
- 7.1 – 2019 Nightingale Awards should read – *He was pleased to report on this year's Trust nursing and midwifery Nightingale Awards*
- 9.1 – Strategic Issues Affecting the Trust and Wider Health Economy. The *Chairman* provided an update on the ongoing work chaired by Sir Ian Carruthers. *Plans to reconfigure are well advanced.*
- 11.1.2 - Change of spelling : *Maureen Rutter*

Following the above amendments the minutes were approved as a true record.

1.4 Matters Arising

There were no matters arising in addition to those on the agenda.

1.5 Action Log

The action log was updated.

1.6 Patient/Staff Story

Gill Hunt, Director of Nursing, brought to the attention of the Board of Directors the new Meridian software which has been launched in the Trust to capture patient experience. She reported that the system will capture the Friends and Family test and the 1000 voices feedback for inpatient areas, predominantly by the use of iPads. Face to face feedback is still available for those patients who are unable to use the iPads.

Gill informed the meeting that since the launch the Trust has seen a significant increase in responses to the Family and Friends and also 1000 voices. For the Family and Friends test in April the response rate was 107, in June it had risen to 645. 1000 voices for April was 349, June was 636.

Whilst the organisation has seen a significant increase in the number of responses being submitted, May and June data has shown, as anticipated, a dip in the overall domain scores. Gill reported that the scores for 'Noise at Night' and 'Consistency and Co-ordination of Care' are below 9, but that the domains of 'Nursing', 'Kindness and Compassion', and 'Respect and Dignity' have consistently all been above 9 in all inpatient areas since Meridian went live.

Gill informed the Board that information is provided to the individual areas on a daily basis, and low scores or negative comments are fed back in real time to relevant managers. One of the next steps will be bespoke reports on a regular basis by ward, directorate and centre. Logins and training for all leaders will be provided to allow them to interrogate the data.

Gill also commented that the Family and Friends test for A&E and Outpatient departments will go live in July and this will be via text message.

Maureen Rutter commented on the importance of ensuring that action is taken in response to feedback from patients and visitors. She confirmed that the Quality Assurance Committee will have oversight of the actions that are required.

The Chairman thanked Gill for the comprehensive report on the new system. At this point in the meeting the Chairman commented that there would be a slight change in the agenda. Item 4.1 CQC Inspection would be covered in agenda item 1.8 Chief Executive's report.

1.7 Chairman's report

The Chairman commented that several of the matters he wished to raise will be covered in the Chief Executive's report. He went on to say that the Trust continues to be under considerable pressure, with a continuing increase in attendances at A&E, staff shortages in key areas and a pressing need for investment in infrastructure and equipment. It is not surprising, therefore, that performance is slipping against a number of key metrics. Despite this, patient satisfaction remains high and staff continue to demonstrate great professionalism and commitment. He thanked the Senior Leadership Team, and staff throughout the Trust, for coping so well under this sustained pressure.

1.8 Chief Executive's report

Siobhan McArdle gave a verbal update on the following areas:

CQC Inspection

Siobhan McArdle reported that the Trust has been rated as 'requires improvement' for being safe, effective and well-led, but 'good' for providing caring and responsive services. Critical Care and Diagnostic Services were both rated as 'requires improvement'. The CQC report contains a number of actions, many of which have already been completed. A comprehensive action plan to address all outstanding issues is being compiled, and this will be presented to the Board of Directors in September.

Action: The action plan in connection with the CQC report is to be presented to the Board in September.

Siobhan went on to report that she had given a face-to-face briefing for staff in Critical Care and Diagnostic Services and had updated all staff via a written CEO Briefing. The Chairman, along with Siobhan has also briefed key external stakeholders.

Siobhan declared that it is important to highlight that the CQC have rated many of the organisation's core services as good. The CQC have also acknowledged the very positive feedback they received from patients and carers during the inspection.

Following the publication of the CQC inspection report and its release to the media under embargo, the Evening Gazette has covered the report online and in the newspaper. BBC Radio Tees, the Northern Echo online, and Hambleton Today are all reporting the story, covering the CQC press release with its comments on critical care and the Trust's response.

Siobhan thanked all of the staff for their continued dedication and commitment to the delivery of good patient outcomes and experience, in what are the most challenging of circumstances.

Maureen Rutter asked that, other than the Critical Care action plan, what other things the Trust is doing to address the issues raised in the CQC report.

Siobhan reiterated that a comprehensive action plan is being prepared to address all the CQC's findings. She will be also meeting with staff over the coming weeks. She highlighted that it will be difficult to address some of the issues raised by the CQC without capital investment – e.g. in a new electronic patient record and a Paediatric A&E department.

Adrian Clements, Deputy CEO and Medical Director for Urgent and Emergency Care & the Friarage Hospital, commented that Critical Care staff accept the findings of the CQC report and that the CQC's recommendations have been actioned. He wanted to reassure the public that the Trust's patient outcomes are very good and that the Trust is in the top quartile for performance across most of the NHS's key performance metrics.

Amanda Hullick asked what the impact had been on the Trust since the reduction in Critical Care beds.

Gill Hunt, Director of Nursing and Quality, reported that the Trust is adhering to the GPICS standard, in accordance with the CQC's recommendations. This has had an impact on the elective programme and has led to the postponement of 70 procedures. However, there is a plan in place for each of the patients affected, to ensure they get the required treatment as soon as possible.

The Chairman commented that he was looking forward to receiving the action plan in September which will address the concerns raised by the CQC, and he expressed confidence that the Trust would quickly recover its 'good' rating. He went on to repeat the CEO's comment that the Trust is in need of capital investment, as it has suffered from a lack of investment over many years.

Siobhan McArdle then went on to list some of the other highlights within the Trust:

- Strategic Dialogue Day on the 20th June was attended by 175 senior clinicians and managers and discussed operational performance and Tees Valley health integration and transformation.
- Staff Engagement event held on the 17th June where staff who had volunteered to be involved in improving staff engagement met to discuss ideas and to develop an action plan.
- The recently elected Mayor of Middlesbrough, Andy Preston, gave a rousing talk to the senior staff at the Strategic Dialogue Day.
- The Sir Robert Ogden Macmillan centre won an award from the Royal Institute of Chartered Surveyors.
- The Thoracic team were shortlisted for the national NHS parliamentary awards for excellence in healthcare following a nomination from Simon Clarke MP.
- The launch of the new staff lottery, with 199 people signed up in 2 weeks.
- £5,000 had been raised for the Trust's charities through staff and patients taking part in a 5k run.

The Chairman congratulated the Charities Team who, under the new leadership of Debra Thornton, are working very hard on behalf of the Trust. He asked that a meeting of the Corporate Trustee be arranged for a discussion about the charity's strategy.

Action: A meeting of the Corporate Trustee be arranged to enable a strategic discussion in connection with Trust's charity.

The Chairman asked the Chief Executive who was responsible for enforcing compliance with the policy that the Trust was a smoke free site. Siobhan McArdle confirmed that it is the responsibility of Serco security staff to challenge smokers.

The Board thanked the Chief Executive and noted the report.

2. Strategy and Planning

2.1 Strategic Issues Affecting Trust and Wider Health Economy

No update was required.

2.2 Friarage Hospital Update

Adrian Clements, Deputy Chief Executive and Medical Director for Urgent and Emergency Care and the Friarage Hospital, reported that it had been a busy month in connection with the Friarage Hospital. Adrian had attended an Overview and Scrutiny Committee (OSC) meeting on 21st June to present the impact of the recent urgent temporary changes. The OSC members were positive about what the Trust was doing and welcomed the update and recognised the hard work underway by staff to make the changes work.

Adrian reported that the changes had resulted in no significant patient safety issues and that patients living near the Friarage who had been taken to James Cook University Hospital were being repatriated to the Friarage as soon as it was appropriate for them to return..

He also commented on the publication of an independent report into the Friarage changes commissioned by Rishi Sunak MP. The report confirmed that there was a sound case for the changes implemented by the Trust, that patient safety would be protected under the new care model and that the new model offers services to sick children which the Friarage could not previously offer.

Adrian went on to say that the Trust is looking to increase the number of elective procedures carried out at the Friarage Hospital.

The application for judicial review of the Trust's decision to make changes at the Friarage is ongoing. Adrian reported that the review had found in favour of the Trust on a number of counts, but had allowed the claim to proceed in respect of the following claims:

- Breach of duty of failure to consult with public
- Failure to consult with local authority
- Breach of public sector equality duty

The Trust is confident that it will successfully defend its position in relation to each of these claims which will be discussed at a hearing to be held on 25th July 2019.

Adrian also reported that Hambleton, Whitby and Richmondshire CCG are preparing to proceed to public consultation on 13 September 2019 in connection with the changes at the Friarage.

Adrian expressed his thanks to James Dunbar, Clinical Director at the Friarage, and all the staff who have supported the changes at the Friarage. These changes have been well planned and implemented.

The Board noted with approval the update from Adrian Clements.

2.3 Staff Engagement and Corporate Culture

The Chairman commented that the CQC reported that staff engagement is an issue within the Trust and he asked that colleagues reflect on how we treat each other. He stressed the importance of the Trust adhering to its own values and policies. He asked that this subject continues to be on the agenda for future meetings of the Board of Directors, in order to ensure that any concerns are addressed quickly.

Siobhan McArdle had earlier reported on the new staff engagement group that has been formed. She went on to say that all staff will be invited to take part in a staff questionnaire and that a clinical engagement questionnaire is being sent to all consultants. This will provide the Trust with good quality feedback, forming a baseline against which progress in improving morale and engagement will be measured.

Maureen Rutter commented and that the action plan which is being presented to the CQC reflects the staff engagement actions.

The Board welcomed the plans by the Trust in connection with staff engagement

3. Quality, Safety, Performance and Finance

3.1 Quality, Safety, Performance and Finance exception report

Adrian Clements reported on the current performance for A&E. It failed to achieve the 95% target for May, reporting 93.65%. Although the Trust has not achieved the target, it is still ranked 3rd in the region and is still one of the top performing A&E departments in the country. Adrian reported that the organisation is seeing a high number of attendances, and on 1st July a record number of 382 patients had come through the department. Attendances had increased by 8% since the start of the 2018/19 financial year. It was noted that A&E are a very high performing team considering the high volume of patients attending the department.

Adrian reported that some of the patients attending the department could be treated in other settings. He is aware that all care providers are under pressure and therefore working with system partners is key to ensuring that patients receive care in the correct setting.

David Chadwick reported on the referral to treatment target (RTT). The Trust reported a performance of 88.71% against a target of 92%. David reported that Jo Dobson, the Director of Transformation is bringing renewed focus to operational performance. He reported that Jo has already identified that a centralised booking system would support the recovery of the RTT target.

The Board noted David's comments regarding the steps needed to improve performance.

David went on to report on the 62 day cancer standard. The Trust reported a performance of 72.32% against a target of 85%. Amanda Hullick asked if late tertiary referrals were having an impact on the Trust, and David reported that this was indeed having an impact, but the Trust had also seen an deterioration in performance for its own referrals. He also reported that the reduction in Critical Care beds was having an impact on the elective list, meaning that some patients were waiting longer for treatment.

Gill Hunt went on to report on the number of Trust apportioned *Clostridium difficile* cases for May. Under the new definitions, the Trust reported 6 new cases. Gill commented that there has been no deterioration in the hand hygiene score and no linked cases.

Gill Hunt reported on the current position on Delayed Transfers of Care (DToC) which had seen a slight rise in May. An initiative is now in place, with all Clinical Directors reviewing patients and

providing comments regarding their stay. Gill also informed the Board that a peer review will be held in September. Gill commented that a reduction in the number of pressure ulcers continues to be a focus for the organisation, and there has been a welcome reduction in the number of falls.

Siobhan reported that there has been a reduction in the level of staff sickness. Completion rates for staff development reviews and mandatory training continue to fall below the required standard, and Siobhan has asked the HR department to produce recovery plans to ensure compliance by September.

Steven Mason provided a summary of the financial position of the Trust. The Trust is currently behind plan by £1.5m due to the loss of STF funding of £1.0m and a underlying overspend of £0.5m. The full year plan is a control total surplus of £3.2m.

Productivity and Efficiency savings for the year to date are £1.0m, with a full year plan of £31.9m, of which £22m is to be delivered by the wider Tees Valley healthcare system.

The Board noted the current situation in connection with performance, sickness and finances.

3.2 Health Care Associated Infection Monthly Report

Gill Hunt, Director of Nursing and Quality, presented the above report. Gill reported that E-coli is the biggest challenge for the Trust due to the national aim of 50% reduction in healthcare associated infection by 2021. She reported that cleaning scores on average remain good, with 3 areas failing the standard in May. Siobhan McArdle commented that she will be arranging a meeting with Serco in connection with their cleaning practices to establish if these have been changed without discussion with the Trust.

Gill also brought to the attention of the Board the recent flu outbreak in Australia. She stressed the importance for the Trust of having the correct vaccine.

The Board noted the contents of the report.

3.2.1 Annual Healthcare Associated Infection Report

The above report was received for information only and the Board noted the contents.

3.3 Safe Staffing Monthly Report

Gill Hunt reported that there is a requirement for the Trust to publish nursing and midwifery staffing levels on a monthly basis. All staffing reports are to be presented to the Board of Directors and require a declaration by the Director of Nursing. Gill commented that the fill rate for May was:

- RN/RM day shift 92.7%, night shift 95.4%
- HCSW day shift 92.3%, night shift 110.3%

Gill commented that agency nurses and dedicated NHSP staff have been deployed in Critical Care to give the Trust flexibility and resilience. Gill also reported that there were 90 unfilled band 5 posts in June. Nursing interviews have taken place, with 97 adults students attending. Pre-employment checks are underway, with 91 appointments made.

The Board thanked Gill for the update and noted the contents of the report.

3.4 Learning from Deaths Monthly Dashboard Quarterly Report

Andrew Owens, Medical Director for Corporate & Clinical Services, presented the above report. Andrew commented that the Medical Examiners' office has been operational since May 2018 and 56% of deaths have had a stage one review, with 253 deaths being recommended for a stage 2 review, of which 55 have been completed. Andrew reported that mortality indicators will continue to be monitored. Issues around the recording of comorbidities and specialist palliative care coding are being addressed through relevant departments of the Trust.

Debbie Reape questioned how lessons learnt are captured and fed back. Andrew reported that feedback is given directly to clinicians and to Clinical Directors. Also reports are provided at the Patient safety sub group and tracked through the Quality Assurance Committee.

The Board thanked Andrew for the update and noted the contents of the report.

4. Governance/Assurance

4.1 CQC Inspection

This was discussed in agenda item 1.8.

4.2 Compliance with CNST Standards Update

Yvonne Regan attended the meeting to present the above report and asked the Board to approve the progress against the standards and approve the relevant evidence.

She provided some background information for the benefit of the Board. A Clinical Negligence Scheme for Trust (CNST) is a maternity incentive scheme to support the delivery of safer maternity care and applies to all acute trusts that deliver maternity services. Members will contribute an additional 10% of the CNST maternity premium to the scheme, creating the CNST maternity incentive fund. The scheme incentivises ten maternity safety actions, and trusts that can demonstrate they have achieved all of the ten actions will recover elements of their contribution and will also receive a share of any unallocated funds.

In order to be eligible for payment, trusts must submit their completed Board declaration form by 15th August and must comply with the following conditions:

- They must achieve all ten maternity safety actions.
- The Board declaration form must be signed and dated by the Trust Chief Executive to confirm that the Board is satisfied that the evidence provided against the ten safety actions meets the required standards and the Board declaration form has been discussed with the commissioners of the maternity services.

The paper presented to the Board highlighted that work was still required to achieve some of the standards. It was therefore agreed that Siobhan McArdle would meet with the leadership team from Community Services to better understand what was still required.

The Board noted the progress on some of the Standards and gave authority for Siobhan McArdle to sign off the report on behalf of the Board once all ten safety actions have been achieved.

4.3 Chairs' Logs from Board Committee Meetings

4.3.1 Finance and Investment Committee

4.3.2 Risk Committee

David Heslop presented the above report and highlighted to the Board that lack of access to capital continues to be a significant risk to both patient safety and the medium term viability of the Trust. He also noted that the IT environment and security of data is a significant risk to both patient safety and the desire to drive greater efficiency through technology.

The Board noted the contents of the report and the risks highlighted above.

4.3.3 Quality Assurance Committee

Maureen Rutter presented the above report. She informed the Board that a deep dive into the urgent temporary changes at the Friarage had not identified any risk to patients.

The Board noted the contents of the report.

5. Closing Items

5.1 Any Other Business

No issues were raised.

5.2 Risks

No new risks were identified to be added to the Board Assurance Framework. The Chairman commented that continued under-investment in the Trust is beginning to have serious consequences. IT systems, estate and equipment are all areas where investment is urgently needed.

5.3 Evaluation of the meeting

It was noted that the meeting had discussed a range of issues, including the CQC report and operational and financial performance. The Chairman repeated his earlier comment that the Trust was operating under extreme pressure.

5.4 Date and time of the next meeting

The date of the next meeting to be held in public is to be reviewed.

Board of Direction Action Log (meeting held in Public)

Date of Meeting	Minute no	Item	Action	Lead	Due Date	Comments	Status (Open or Completed)
5.2.19	BoD/02/19/11.4	Communication and Engagement Strategy	It was agreed that a forward plan and metrics would be developed	H Edwards	03 09 19	Update to be provided at the September meeting 03 09 19	Open
02 07 19	BoD/07/19/1.8	Chief Executive Report - CQC inspection	Comprehensive action plan to be prepared in response to the CQC report	G Hunt	03 09 19	Action plan to be presented to the Board in September 03 09 19	open
02 07 19	BoD/07/19/1.8	Chief Executive Report - Charity	A meeting of the Corporate Trustees to be arranged to enable a strategic discussion in connection with the Charity's Strategy	D Thornton	03 09 19	Meeting to be arranged to co-inside with September Board. 03 09 19	open



South Tees Hospitals
NHS Foundation Trust

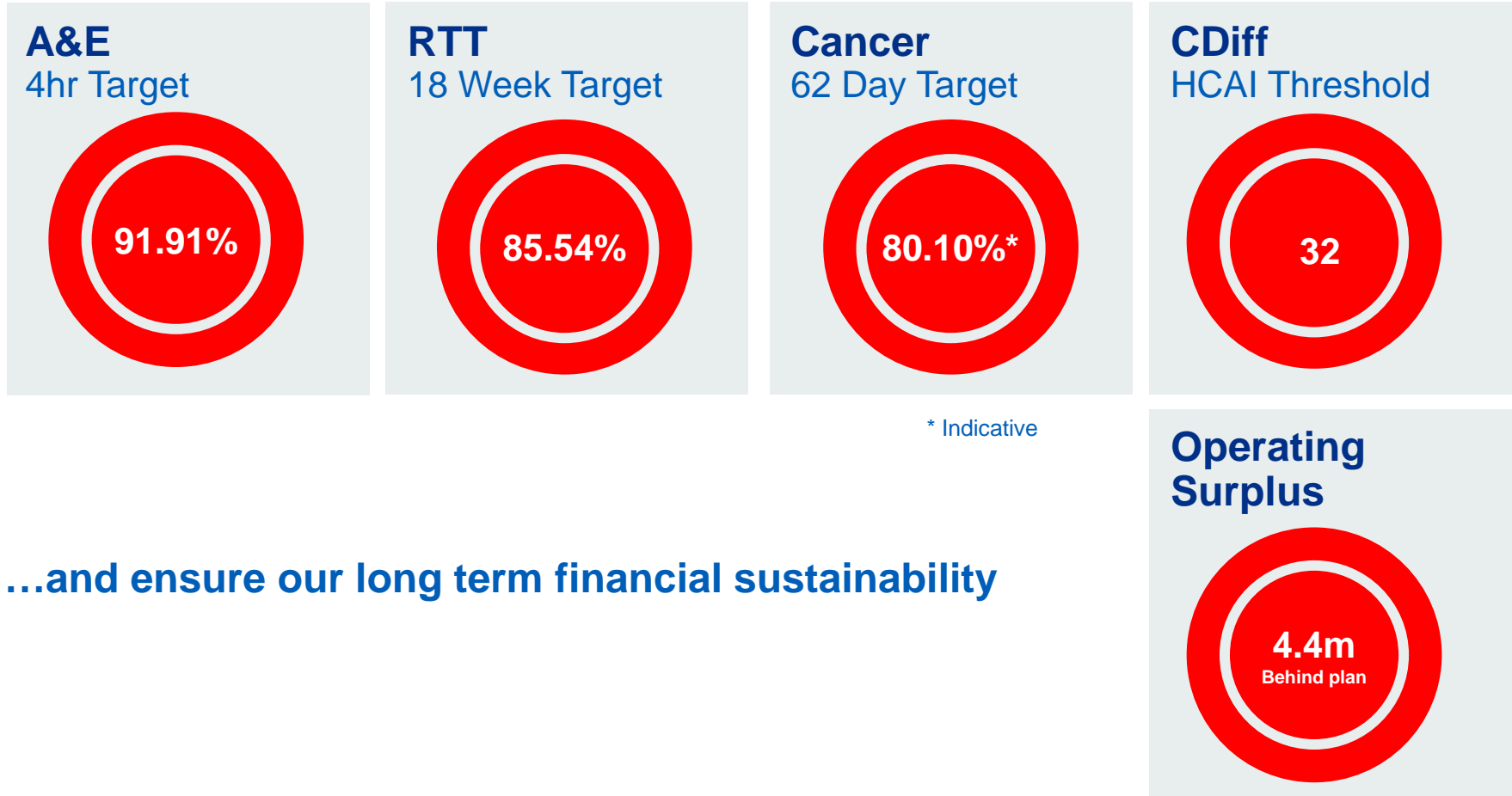
Quality, Operational & Finance Performance Report

August 2019

Must Do's

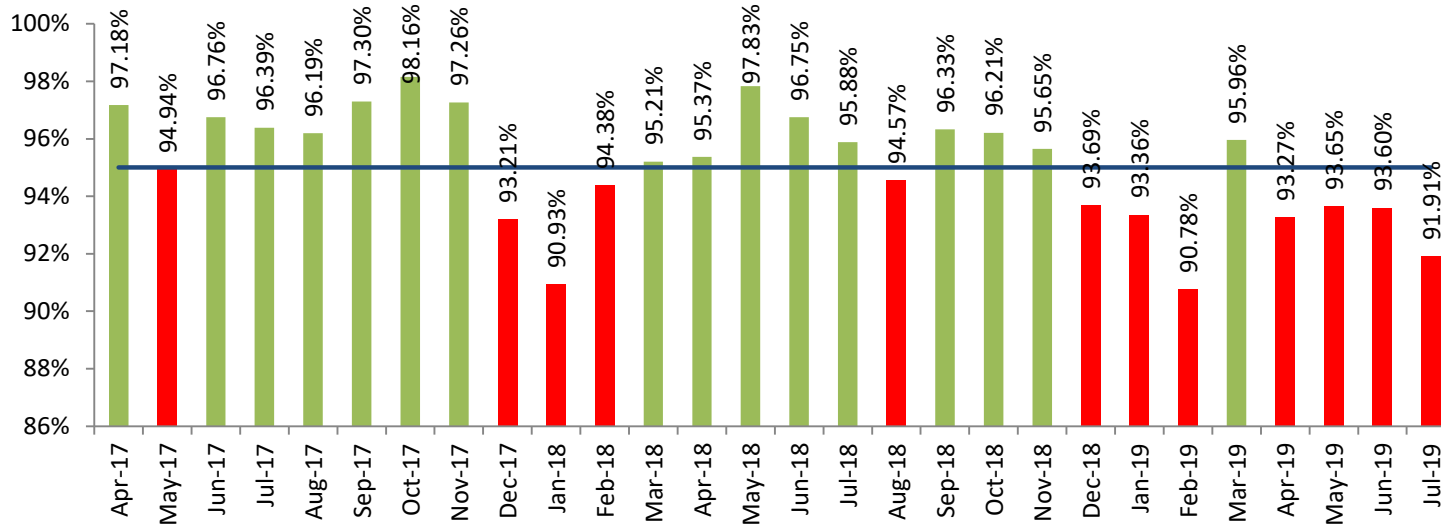
Must Do's 2018/19 – July 2019

Deliver Excellence in Patient Outcome and Experience....



...and ensure our long term financial sustainability

Performance - A&E



95%
TARGET

July 19
91.91%

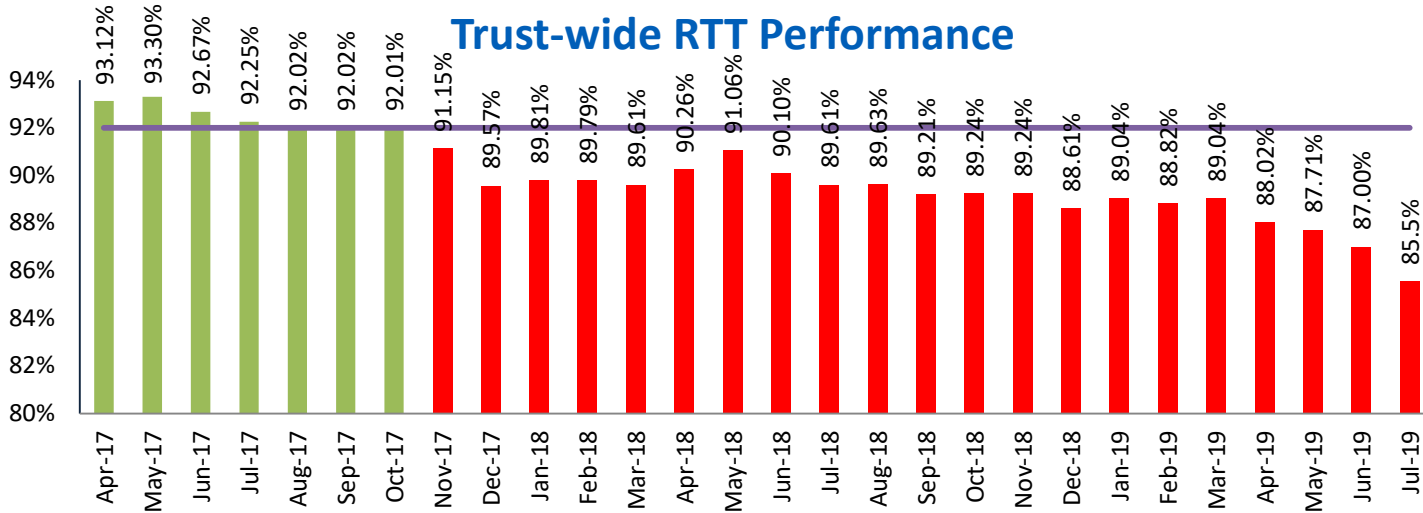
Aug to date (at 14/08/19)
91.30%

Regional Rank	Trust	Jul-19
1	Northumbria Healthcare NHS Foundation Trust	95.01%
2	The Newcastle Upon Tyne Hospitals NHS Foundation Trust	94.46%
3	Gateshead Health NHS Foundation Trust	93.67%
4	Harrogate and District NHS Foundation Trust	93.08%
5	South Tees Hospitals NHS Foundation Trust	91.91%
6	North Cumbria University Hospitals NHS Trust	87.43%
7	South Tyneside And Sunderland NHS Foundation Trust	87.16%
8	County Durham and Darlington NHS Foundation Trust	83.42%
9	York Teaching Hospitals NHS Foundation Trust	81.13%
-	North Tees and Hartlepool NHS Foundation Trust	
	ENGLAND	86.50%

Jul 19
Ranked 5th in the region

Referral to Treat

Trust-wide RTT Performance



92%
TARGET

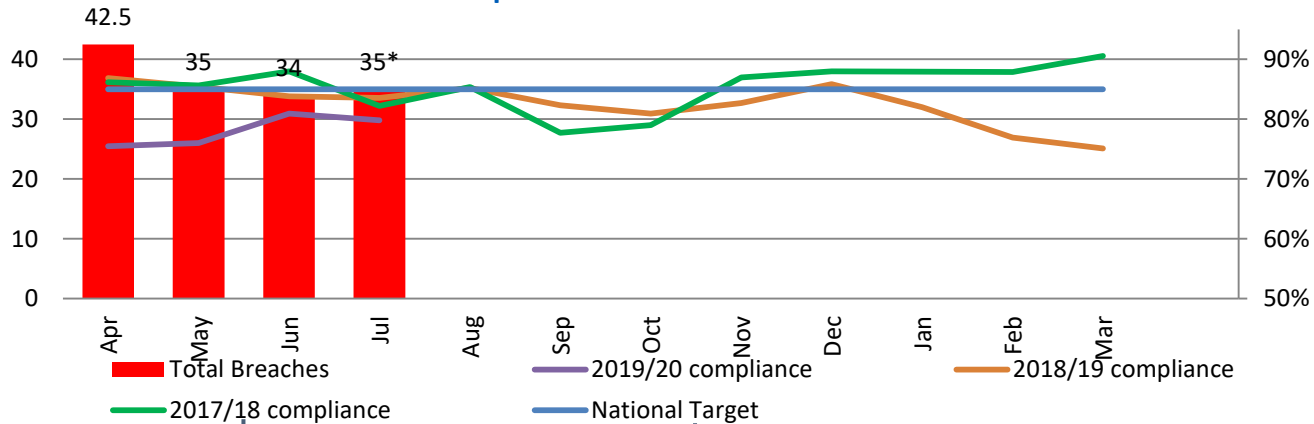
July 19
85.54%

Regional Rank	Trust	Jun-19
1	North Tees and Hartlepool NHS Foundation Trust	94.05%
2	Northumbria Healthcare NHS Foundation Trust	92.66%
3	Gateshead Health NHS Foundation Trust	92.31%
4	South Tyneside And Sunderland NHS Foundation Trust	92.18%
5	The Newcastle Upon Tyne Hospitals NHS Foundation Trust	92.06%
6	County Durham and Darlington NHS Foundation Trust	91.08%
7	Harrogate and District NHS Foundation Trust	88.30%
8	South Tees Hospitals NHS Foundation Trust	87.00%
9	York Teaching Hospital	78.28%
10	North Cumbria University Hospitals NHS Trust	73.65%
	ENGLAND	86.32%

**Jun 19
Ranked 8th in the
region**

Performance – 62 Day Cancer Standard

% Compliance and number of breaches



◀ % compliance and number of breaches

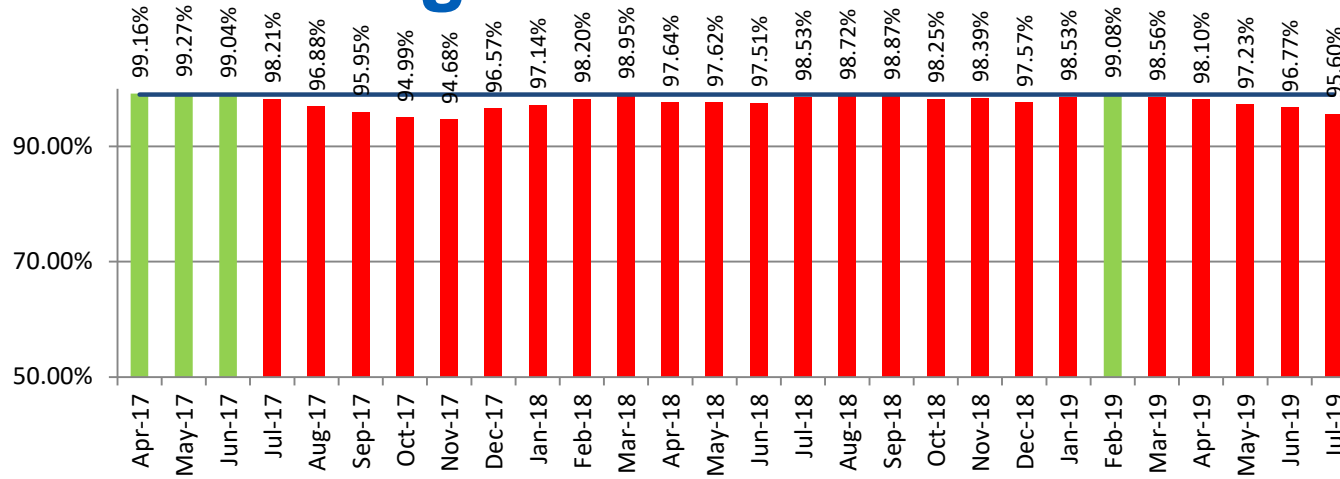
* Indicative

Jan 19 | **Feb 19** | **Mar 19** | **Apr 19** | **May 19** | **Jun 19** | **Jul 19**
82.02% | **76.90%** | **75.57%** | **75.50%** | **76.30%** | **80.95%** | **80.10%***

Regional Rank	Trust	Jun-19
1	North Tees and Hartlepool NHS Foundation Trust	90.32%
2	Harrogate and District NHS Foundation Trust	88.98%
3	York Teaching Hospitals NHS Foundation Trust	84.98%
4	County Durham and Darlington NHS Foundation Trust	84.50%
5	South Tees Hospitals NHS Foundation Trust	80.95%
6	Northumbria Healthcare NHS Foundation Trust	75.82%
7	North Cumbria University Hospitals NHS Trust	72.89%
8	South Tyneside and Sunderland NHS Foundation Trust	71.88%
9	The Newcastle Upon Tyne Hospitals NHS Foundation Trust	70.92%
11	Gateshead Health NHS Foundation Trust	67.80%
	ENGLAND	76.66%

**Jun 19
Ranked 5th in the
region**

6 Week Diagnostic



99%
TARGET

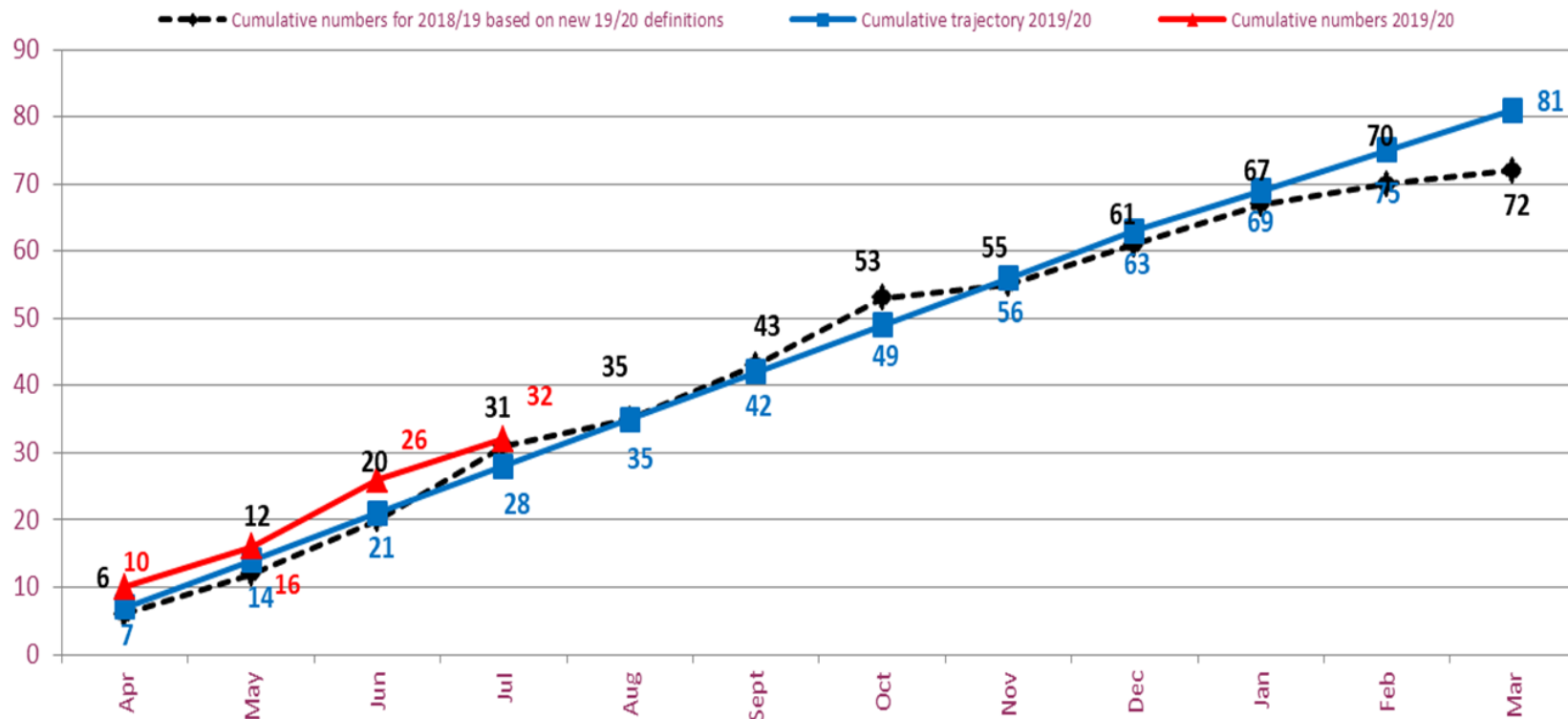
July 19
95.60%

6 Week Diagnostic Performance (Target 99%)	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19
Magnetic Resonance Imaging	99.82%	99.75%	99.67%	99.73%	99.29%	99.19%	98.65%	99.69%	99.75%	99.83%	99.64%	99.78%
Computed Tomography	99.93%	100.00%	100.00%	99.93%	100.00%	100.00%	100.00%	99.79%	99.92%	99.85%	99.94%	99.93%
Non-obstetric ultrasound	98.14%	98.50%	98.35%	96.57%	97.21%	95.71%	100.00%	100.00%	100.00%	100.00%	99.90%	99.90%
Barium Enema												
DEXA Scan	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
Audiology Assessments	96.88%	100.00%	100.00%	99.55%	99.77%	99.74%	99.77%	98.55%	98.83%	96.22%	98.11%	94.86%
Cardiology - echocardiography	100.00%	100.00%	86.67%	94.59%	87.50%	76.00%	100.00%	92.50%	93.62%	92.31%	88.24%	83.78%
Cardiology - electrophysiology												
Neurophysiology	99.47%	96.05%	99.45%	100.00%	99.35%	97.29%	83.07%	95.21%	91.30%	84.09%	70.74%	70.64%
Sleep studies	36.67%	41.67%	47.83%	56.25%	70.59%	54.55%	65.38%	67.31%	50.00%	44.44%	14.29%	34.92%
Urodynamics - pressures & flows	85.71%	100.00%	85.71%	95.45%	61.54%	66.67%	65.63%	47.37%	18.52%	48.00%	52.08%	79.07%
Gastro - Colonoscopy	100.00%	99.47%	100.00%	100.00%	100.00%	100.00%	100.00%	98.41%	94.30%	93.75%	94.86%	71.53%
Gastro - Flexi sigmoidoscopy	100.00%	98.41%	100.00%	100.00%	100.00%	100.00%	100.00%	96.77%	94.12%	92.75%	89.47%	74.38%
Urology - Cystoscopy	98.48%	95.42%	99.23%	95.93%	94.44%	96.77%	96.17%	95.95%	97.18%	100.00%	94.62%	96.83%
Gastroscopy	99.43%	99.41%	100.00%	99.46%	100.00%	100.00%	100.00%	98.32%	95.95%	96.48%	98.11%	88.85%
Trust Total	98.53%	98.72%	98.87%	98.25%	98.39%	97.57%	98.53%	99.08%	98.56%	98.10%	97.23%	95.60%

Operational Management

2

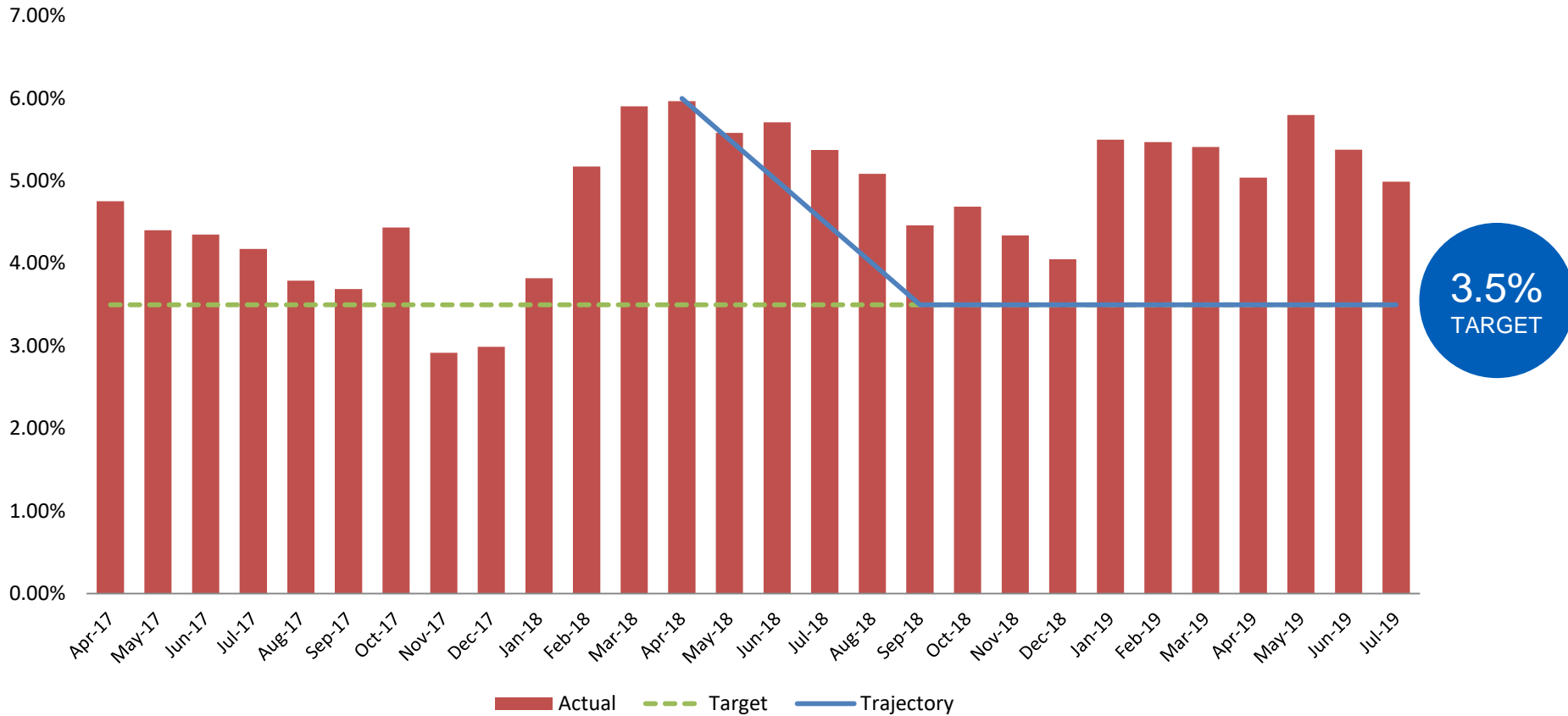
Clostridium difficile cases - April 2019 to March 2020



Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20
JC34 (HOHA)	JC02 (COHA)	ITU3 (HOHA)	Ward 7 (COHA)								
JCSSU (HOHA)	Gara (HOHA)	GHDU (HOHA)	Ward 5 (COHA)								
JC33 (COHA)	JC10 (COHA)	Victoria (HOHA)	Ward 37 (HOHA)								
FHCDU (COHA)	ZET (HOHA)	Ward 10 (HOHA)	Romanby (COHA)								
RAFAU (COHA)	JCTU2 (HOHA)	Ward 7 (HOHA)	Ward 7 (HOHA)								
JC37 (COHA)	JC03 (COHA)	Ward 36 (HOHA)	Ward 7 (HOHA)								
RAFAU (HOHA)		Romanby (HOHA)									
JC09 (HOHA)		Ward 7 (HOHA)									
JCCT (COHA)		Ward 27 (HOHA)									
RAFAU (COHA)		Ward 25 (HOHA)									

Delayed Transfer of Care (DToC)

Percentage DToC against Midnight Bed Occ



Patient Outcome and Experience

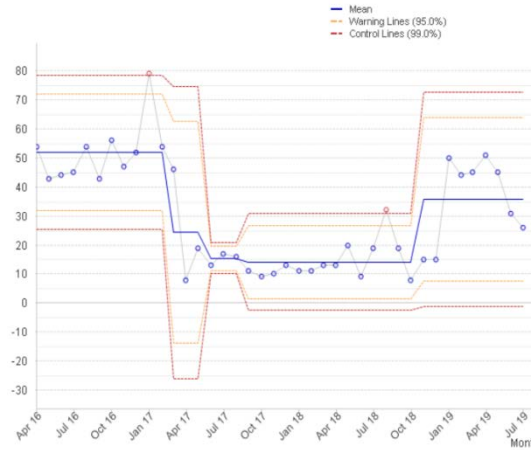
3

Delivering Safe Care 19/20

New or deteriorating category 2 pressure ulcers July 2019

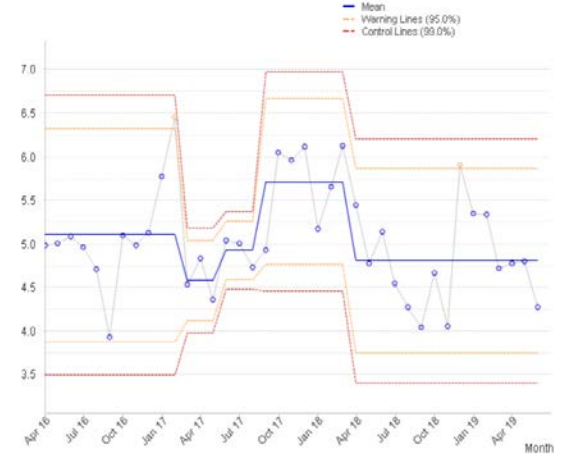


Inpatient rate is 1.3 per 1000 bed days.



26 community category 2 pressure ulcers

Falls July 2019



Rate 4.3 per 1000 bed days.

Incidents Reported as Serious Incidents in July 19

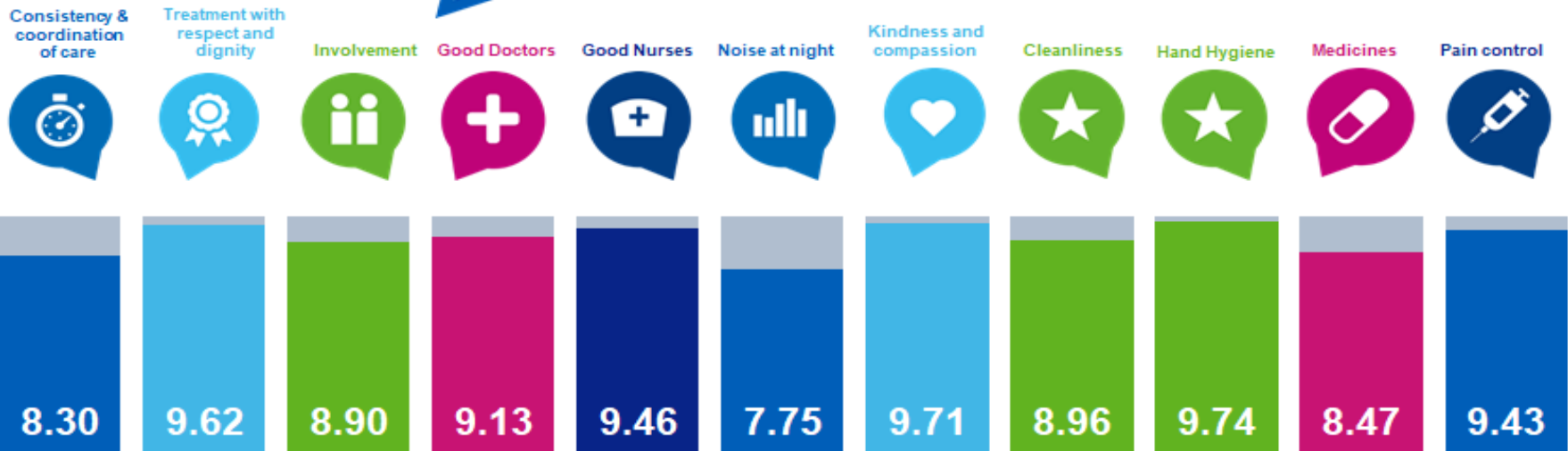
	August 2018	September 2018	October 2018	November 2018	December 2018	January 2019	February 2019	March 2019	April 2019	May 2019	June 2019	July 2019	Total 2019/20
Anaesthetics/Theatre/Surgery	0	0	0	0	1	1	0	0	0	0	2	0	2
Breach/Cancellation of Treatment	0	0	0	0	0	0	0	0	1	0	0	0	1
Death of Person	0	0	0	0	0	0	0	0	2	0	0	0	2
Fall/Slip/Trip	1	1	1	2	2	2	0	3	2	2	2	1	7
Nutrition Related	0	0	0	0	0	0	0	0	0	0	0	1	1
Infection Control	0	0	0	0	0	0	0	0	0	0	0	1	1
Information Governance	0	0	0	0	0	0	0	0	0	0	0	0	0
Obstetrics Related	0	0	0	0	1	1	3	1	0	0	1	0	1
Medication	0	0	0	0	0	0	0	0	0	0	0	1	1
Mortuary Related Incidents	1	0	0	0	0	0	0	0	0	0	0	0	0
Treatment, Procedure	1	1	1	0	1	0	0	2	0	1	1	2	4
Pressure Ulcer	1	1	6	2	2	2	0	3	2	2	0	0	4
Infrastructure e.g. buildings, utilities	0	0	0	0	0	0	0	0	0	1	0	0	1
Total	4	3	8	4	7	6	3	9	7	6	6	6	25

- 6 SI's reported in July with a total of 25 Ytd
- One related to a Never Event where a naso-gastric tube was misplaced
- All SI's have been reported to the CCG and the CQC and are investigated thoroughly to determine the cause of the incident and areas for learning and improvement across the organisation

Patient Experience

Trust

How do patients rate us out of 10...?



In July 2019 patients gave us an overall rating of...

9.03 out of 10

% of patients surveyed would highly likely or likely recommend this ward to their families and friends

98%

No of patients on new medication

447

No of respondents

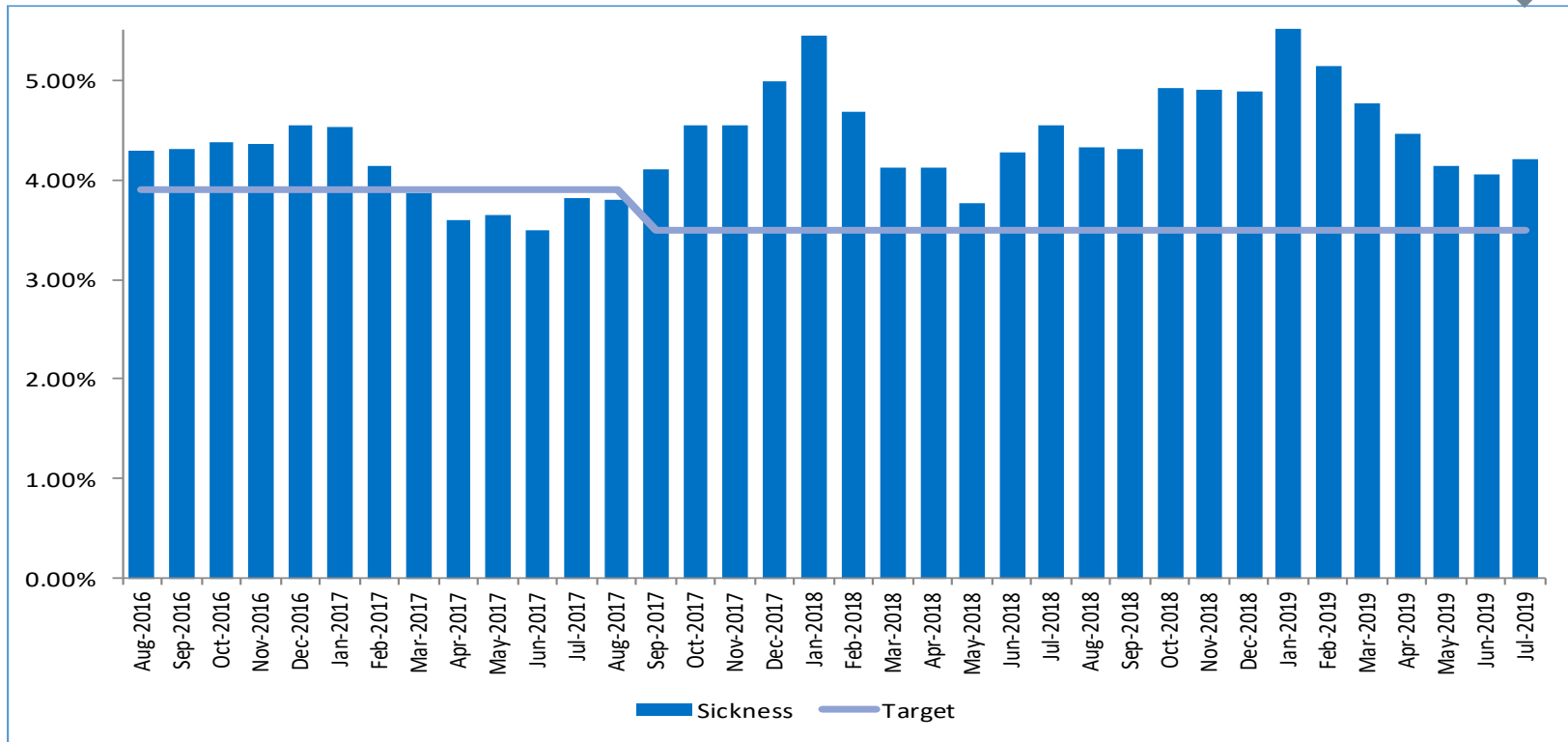
815

People

4

People Sickness % Rate

July
4.21%



Target
3.5%

SDR % Rate - 80.36% (Target 80%)

2016/17	2017/18	2018/19	2019/20
71.27%	84.70%	77.83%	77.92%

Training % Rate 85.13% (Target 90%)

2016/17	2017/18	2018/19	2019/20
89.35%	92.38%	90.31%	87.05%

People Sickness % Rate by Staff Group

Sickness % Rate by Staff Group

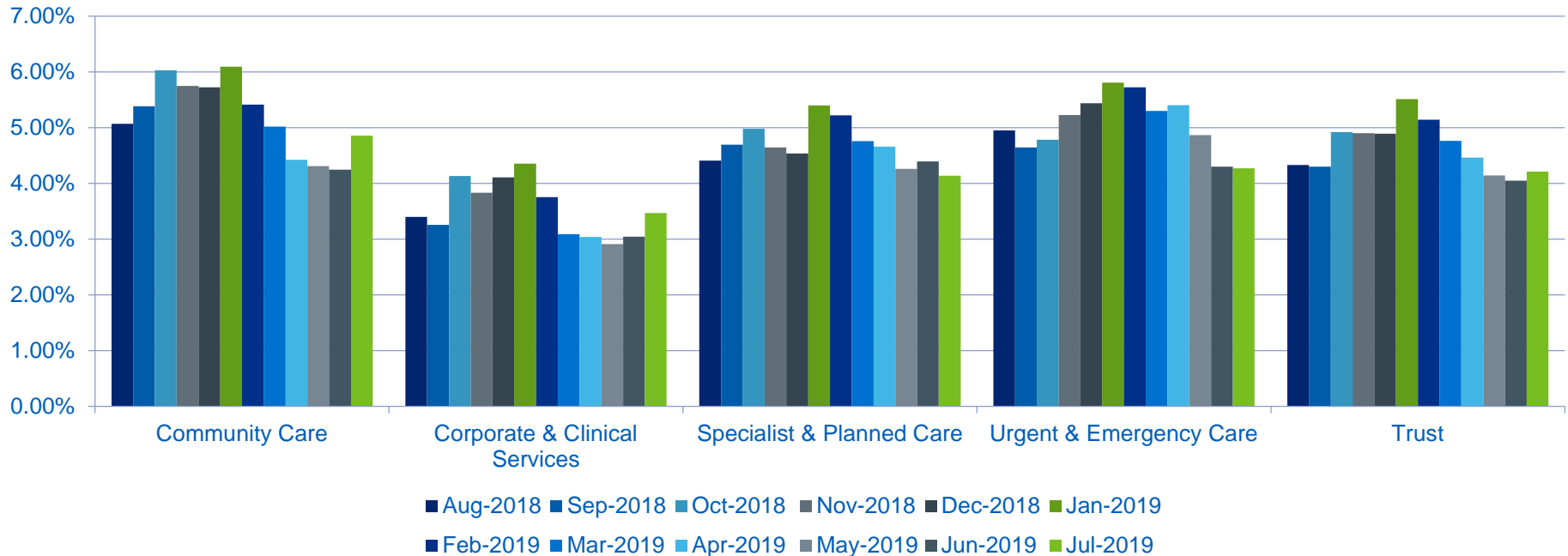
Staff Group	Jul-19	Jun-19	% Change
Add Prof Scientific and Technic	2.62%	4.28%	-1.66%
Additional Clinical Services	6.27%	6.59%	-0.31%
Administrative and Clerical	3.76%	3.52%	0.24%
Allied Health Professionals	2.44%	2.23%	0.22%
Estates and Ancillary	4.73%	2.68%	2.05%
Healthcare Scientists	2.67%	3.50%	-0.83%
Medical and Dental	1.39%	1.64%	-0.25%
Nursing and Midwifery Registered	4.44%	4.04%	0.40%
Students	0.00%	0.00%	0.00%

- Realigned HR operations into Centres
- Standardised absence data across the Trust and ensured it is regularly available to managers
- Updated HR information on ward notice boards
- Fortnightly meeting with Head of HR Ops to discuss every long term absence case and progress
- Absence 30, 60, 90 day action plan in place for each Centre
- Absence KPI meetings arranged between HR Team and Service Managers to ensure robust management process in place
- Trajectories being developed to ensure target of 3.5% is met within 6 months

People

12 months Sickness % Rate by Centre

Centre	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19
Community Care	5.07%	5.38%	6.03%	5.75%	5.72%	6.09%	5.41%	5.02%	4.42%	4.31%	4.24%	4.86%
Corporate & Clinical Services	3.40%	3.26%	4.13%	3.83%	4.11%	4.35%	3.75%	3.09%	3.04%	2.91%	3.04%	3.47%
Specialist & Planned Care	4.41%	4.69%	4.98%	4.64%	4.54%	5.40%	5.22%	4.76%	4.66%	4.26%	4.40%	4.13%
Urgent & Emergency Care	4.95%	4.64%	4.78%	5.23%	5.44%	5.81%	5.72%	5.30%	5.40%	4.87%	4.30%	4.27%
Trust	4.33%	4.30%	4.92%	4.90%	4.89%	5.51%	5.14%	4.76%	4.46%	4.14%	4.05%	4.21%



Sickness Process Summary

Total Triggered

348 ↓

396 Previous Month

- Forensic review of all cases to agree action plans
- Cascade data to Board, centers and management teams to provide visibility of the detail
- Analyse data to develop a sickness forecast
- Measure results against predictions within the forecast

98.85% ↑

98.73%
Previous Month

Stage 1



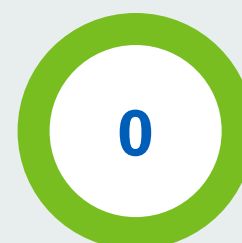
Stage 2



Stage 3



Dismissal

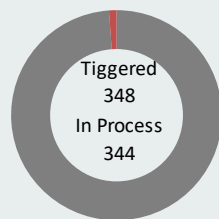


Total not in Process

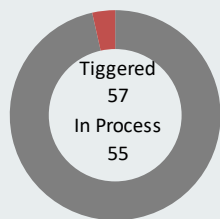
1.15% ↓

1.27%
Previous Month

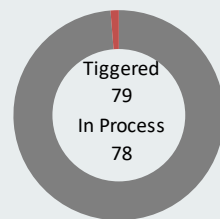
Trust



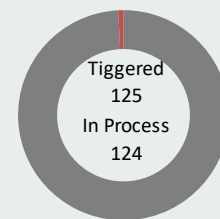
Corporate & Clinical Services



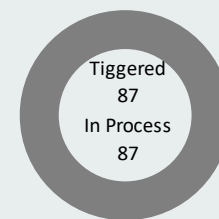
Community Care



Specialist & Planned



Urgent & Emergency



Finance

5

Summary Financials by center – July 2019

Community Care	YTD Budget £	YTD Actual £	YTD Variance £
Other Income	1,457	1,678	221
Pay	(31,288)	(31,672)	(384)
Non Pay	(13,007)	(13,054)	(47)
Total	(42,838)	(43,048)	(210)

Corporate Clinical Services	YTD Budget £	YTD Actual £	YTD Variance £
Other Income	7,567	8,093	525
Pay	(11,762)	(11,728)	35
Non Pay	(5,533)	(6,231)	(699)
Total	(9,728)	(9,867)	(139)

Specialist & Planned Care	YTD Budget £	YTD Actual £	YTD Variance £
Other Income	1,177	1,189	12
Pay	(40,228)	(40,324)	(96)
Non Pay	(27,762)	(27,942)	(179)
Total	(66,814)	(67,077)	(263)

Urgent & Emergency Care	YTD Budget £	YTD Actual £	YTD Variance £
Other Income	337	357	20
Pay	(29,150)	(29,696)	(546)
Non Pay	(4,212)	(4,358)	(146)
Total	(33,025)	(33,697)	(672)

Corporate	YTD Budget £	YTD Actual £	YTD Variance £
Nhs Clinical Income	191,164	189,964	(1,200)
Other Income	3,818	2,820	(999)
Pay	(13,292)	(12,289)	1,002
Non Pay	(30,071)	(31,906)	(1,835)
Restructuring Costs	0	(92)	(92)
Depreciation And Interest	(7,959)	(7,982)	(23)
Other non operating	(2,076)	(2,043)	33
Total	141,585	138,471	(3,113)

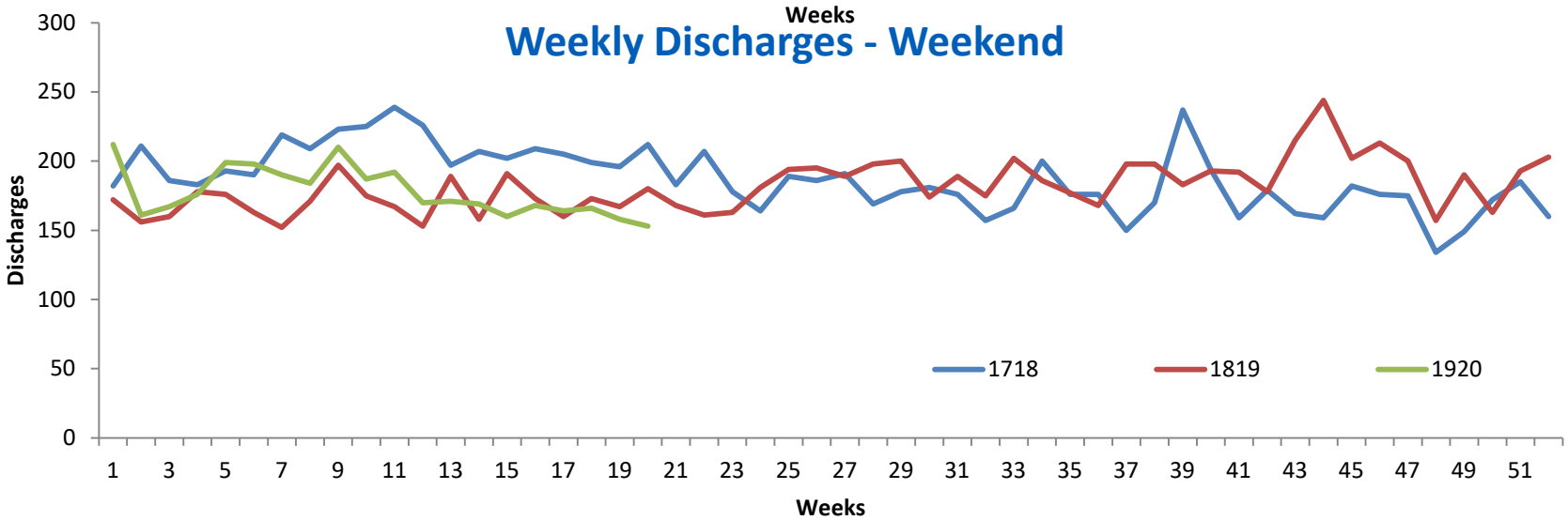
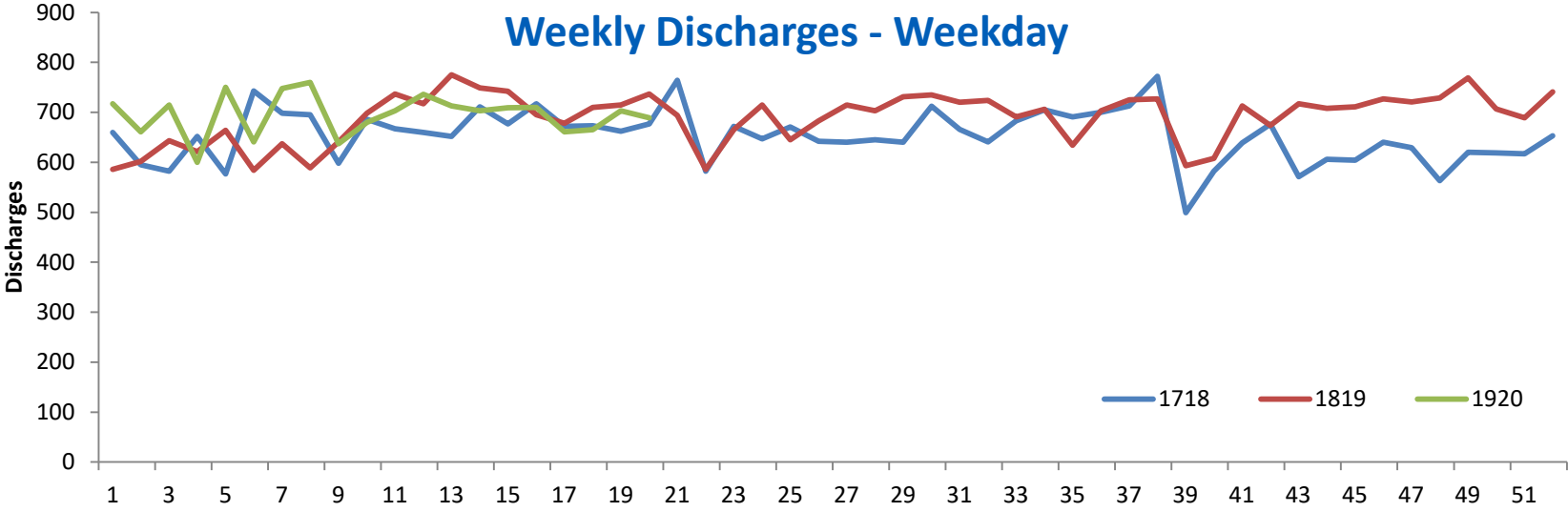
Trust Control Total	(10,821)	(15,218)	(4,397)
----------------------------	-----------------	-----------------	----------------

- Trust headlines YTD M4
- Control total
- Behind plan by £4.4m
- Loss of STF funding £0.6m, £2.2m being undelivered system savings, underlying overspend of £1.6m
- Full year plan is a control total surplus of £3.2m
- Productivity and Efficiency savings
- YTD savings of £3.4m

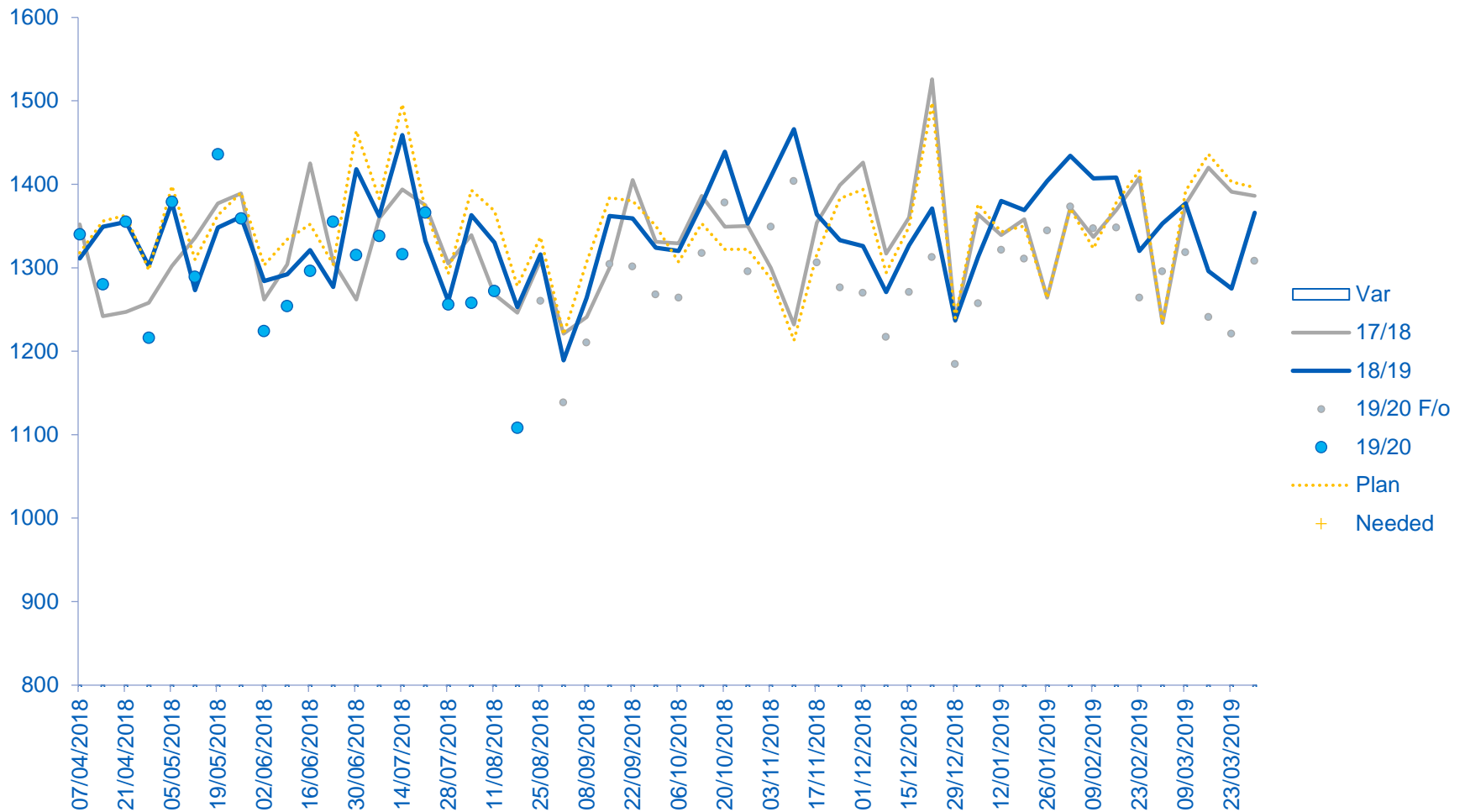
Appendices

6

JCUH Adult Ward Discharge Rates

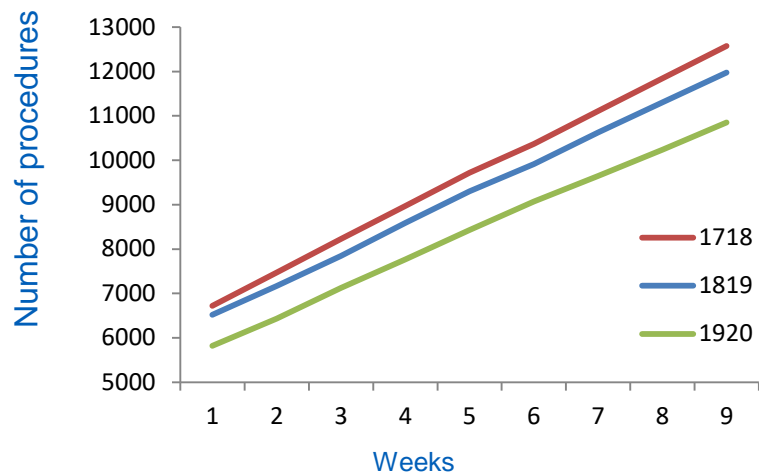


Non-Elective Delivery - All



Elective – Theatre Throughput

Elective overnight and day case - 9 week delivery period from 09/06/2019 FY19/20 compared with FY17/18 & FY18/19

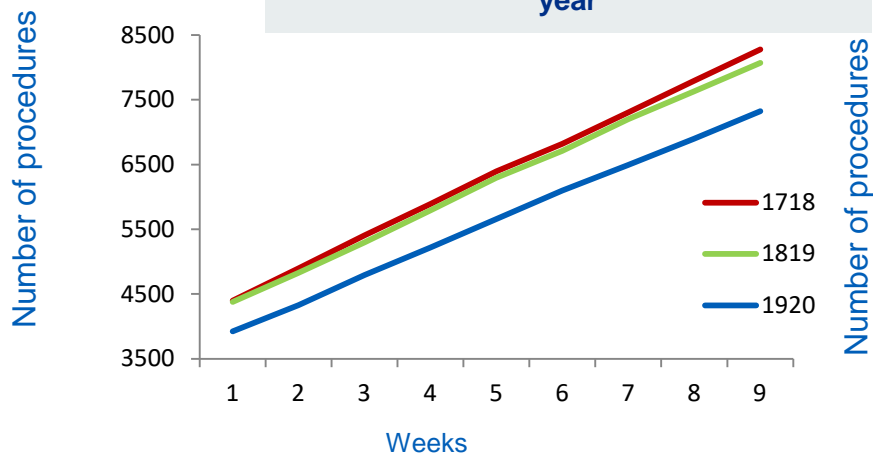


9.3% fewer cases undertaken in last 9 week period this year when compared to last year.

YTD 9.3% less than last year

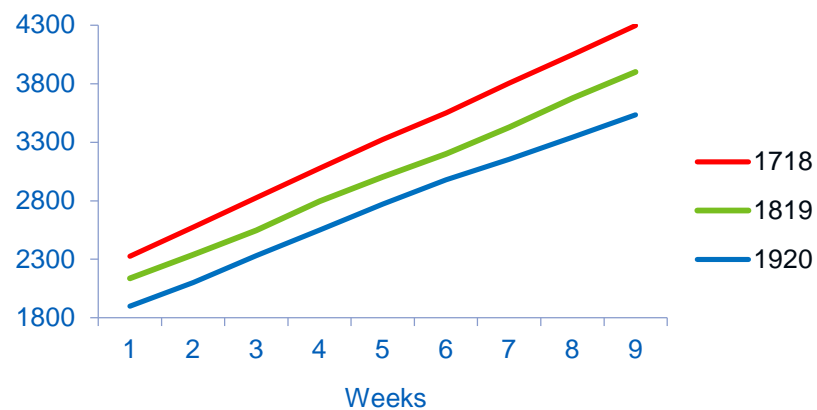
Elective day case

YTD 9.3% less when compared with last year



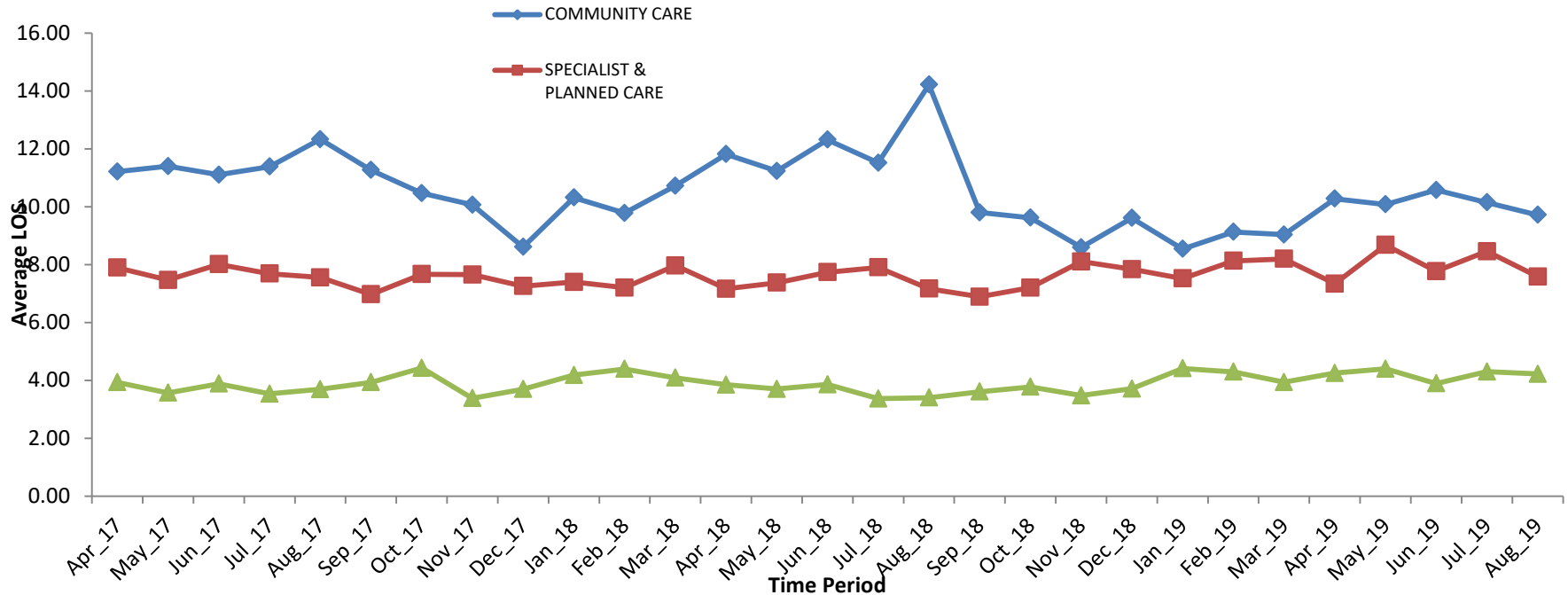
Elective overnight

YTD 9.4% less when compared with last year



Emergency Length of Stay by Centre

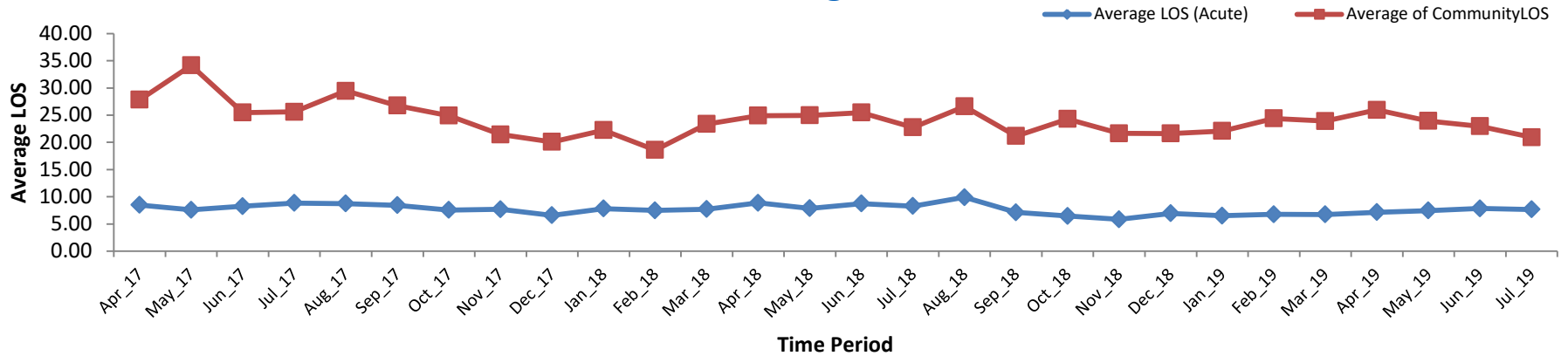
Emergency LOS by Centre at Discharge - 1st April 17 - 18th August 19



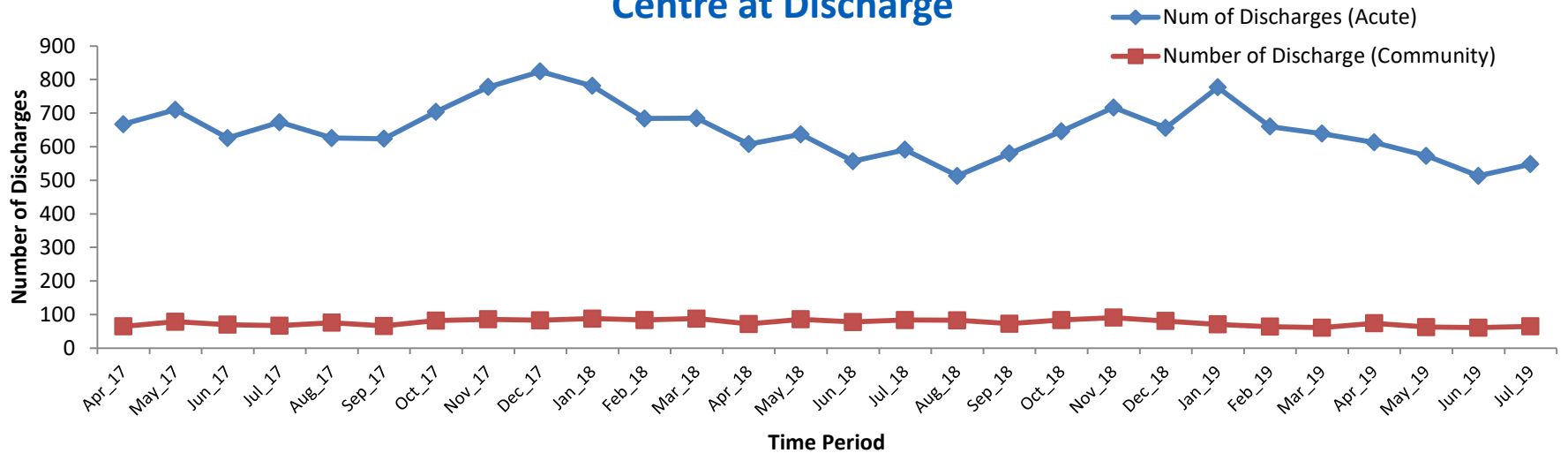
AVG LOS				
Centre	Community Care	Specialist & Planned Care	Urgent & Emergency Care	Grand Total
1718	10.7	7.6	3.9	7.2
1819	10.4	7.6	3.8	6.9
1920	10.2	8.0	4.2	7.1

Emergency LOS for Community Centre by Site Type

Average LOS by Site Type for Patients Under Community Care Centre at Discharge



Number of Discharges by Site Type for Patients Under Community Care Centre at Discharge



Board of Directors	
Agenda item	Agenda item 10, ENC 5
Title of Report	Healthcare-associated infection (HCAI) report for July 2019
Date of Meeting	3 September 2019
Presented by	Gill Hunt, Director of Nursing and Quality / DIPC
Authors	Richard Bellamy, Infection Control Doctor, JCUH Astrida Ndhlovu, Lead Nurse, Infection Prevention and Control Helen Day, Deputy Director of Nursing/Deputy DIPC Gill Hunt, Director of Nursing and Quality/ DIPC
Approved by	Gill Hunt
Previous Committee/Group Review	Not applicable
Purpose	<p style="text-align: center;">Approval <input type="checkbox"/> Decision <input type="checkbox"/></p> <p style="text-align: center;">Discussion <input type="checkbox"/> Information <input checked="" type="checkbox"/></p>
Alignment to Trust's Strategic Objectives	<p><input checked="" type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience</p> <p><input checked="" type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care</p> <p><input type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future</p> <p><input type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice</p> <p><input type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability</p>
Alignment to Board Assurance Framework	BAF 2.1 delivery of safe care
Legal/Regulatory Compliance Requirements (if applicable)	<ul style="list-style-type: none"> • Care Quality Commission • NHS Improvement • NHS England
Recommendation(s)	The Board of Directors are asked to receive the report for information and note the current position in respect of HCAI and to support the actions being taken.

1. Executive Summary

This report summarises surveillance information on *Clostridium difficile*-associated diarrhoea, *Methicillin Resistant Staphylococcus aureus* (MRSA) and *Methicillin Sensitive Staphylococcus aureus* (MSSA) bacteraemia, bacteraemia due to *glycopeptide-resistant Enterococci*, *Escherichia coli* (E. coli), Extended Spectrum Beta Lactamase (ESBL)-producing coliform infections and other important healthcare-associated infections for the month of July 2019. The report also highlights antimicrobial stewardship and environmental cleaning in relation to HCAI management.

- The *Clostridium difficile*-associated diarrhoea objective for 2019/20 is to have no more than 81 community-onset healthcare-associated (COHA) plus healthcare-onset healthcare-associated (HOHA) cases among patients aged over 2 years. There were 6 COHA + HOHA cases in July 2019. There have been 32 COHA + HOHA cases in the first 4 months of 2019/20. We are currently over trajectory.
- The Trust approach to MRSA bacteraemia is one of 'zero tolerance'. There were 0 trust-assigned cases in July 2019. There have been 0 trust-assigned cases in the first 4 months of 2019/20.
- There is no official MSSA bacteraemia target for 2019/20. There were 4 trust-apportioned cases in July 2019. There have been 13 trust-apportioned cases in the first 4 months of 2019/20.
- There has been an outbreak of *Serratia marcescens* infection affecting patients who have been treated in cardiothoracic ICU and/or HDU and/or Ward 32. There have been 4 confirmed cases, 8 probable cases and 2 possible cases.

2. Recommendation

The Board of Directors are asked to receive the report for information and note the current position in respect of HCAI and to support the actions being taken.

1. SURVEILLANCE DATA

The 2019/20 *C. difficile* definitions are as follows:

- Hospital onset healthcare associated (HOHA): cases detected in the hospital ≥ 2 days after admission.
- Community onset healthcare associated (COHA): cases that occur in the community (or within < 2 days of admission) when the patient has been an inpatient in the trust reporting the case in the previous 4 weeks.
- Community onset indeterminate association (COIA): cases that occur in the community (or within < 2 days of admission) when the patient has been an inpatient in the trust reporting the case in the previous 12 weeks but not the most recent 4 weeks,

Community onset community associated (COCA): cases that occur in the community (or within < 2 days of admission) when the patient has not been an inpatient in the trust reporting the case in the previous 12 weeks.

1.1 *Clostridium difficile*

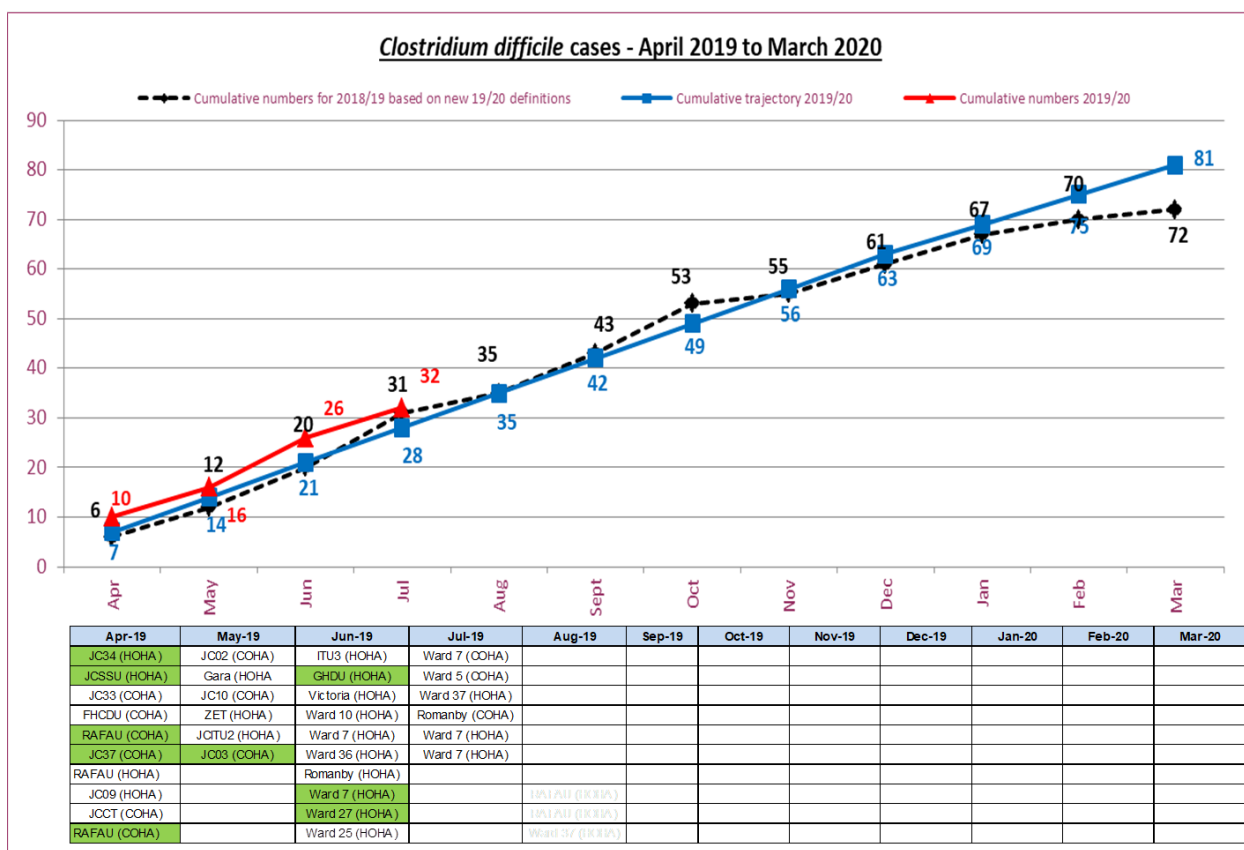
C diff	Total 2018/19	Aug 18	Sep 18	Oct 18	Nov 18	Dec 18	Jan 19	Feb 19	Mar 19	Apr 19	May 19	June 19	July 19	Total 2018/19 to date	Target for 2018/19
Total cases	120	8	11	17	9	8	11	5	6	18	7	14	14	53	NA
Not trust apportioned	79	5	7	10	9	5	7	3	5	8	1	4	8	20	NA
Trust-apportioned	41	3	4	7	0	3	4	2	1	10(4)	6(3)	10(10)	6(3)	32(20)	81
- JCUH	33	2	4	6	0	3	4	1	1	10	4	8	5	27	
-FHN	3	0	0	0	0	0	0	0	0	0	1	1	1	3	
-Carters	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
-Redcar	2	0	0	1	0	0	0	0	0	0	1	0	0	1	
-East Cl	1	0	0	0	0	0	0	0	0	0	0	0	0	0	
-Guis	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
-Rutson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
-Friary	2	1	0	0	0	0	0	1	0	0	0	1	0	1	
-Lambert	0	0	0	0	0	0	0	0	0	0	0	0	0	0	

Table 1

There were 14 cases of *C. difficile* infection in July 2019, 3 of which were classed as COHA and 3 were classed as HOHA, totalling 6 classed as trust-apportioned according to the new definition (table1). The 2019/20 annual objective is to have no more than 81 COHA + HOHA cases. In the first 4 months of 2019/20 there have been 32 trust-apportioned cases (COHA = 12; HOHA = 20). All actions to ensure that robust controls are in place are monitored through IPAG and the monthly Centre Clinical Standards meetings-held with Matrons.

Deaths within 30 days after *C. difficile* diagnosis: for June 2019, 3 patients died during this period. Since April 2009, 302/1684 patients (18%) have died during the 30 day follow-up period.

Graph 1: Cumulative Trust-apportioned *C. difficile* cases 2019/20 compared to trajectory:



Graph 1

Appeal successful

Root Cause Analysis (RCA) and panel reviews are undertaken for all trust-apportioned *C. difficile* cases. Panel reviews are chaired by the DIPC or her Deputy and are attended by CCG colleagues. If the panel agrees that there were no deficiencies in care then the case may be discounted from the total for performance measurement purposes.

The average hand hygiene self-assessment score in July 2019 was 92.17% and the peer review average was 90.10%.

1.2 MRSA bacteraemia

MRSA	Total 2018/19	Aug 18	Sep 18	Oct 18	Nov 18	Dec 18	Jan 19	Feb 19	Mar 19	Apr 19	May 19	June 19	July 19	Total 2019/20 to date	Target for 2019/20
Total cases	9	1	0	0	2	0	1	1	0	0	0	0	0	0	NA
Not trust assigned	8	0	0	0	2	0	1	1	0	0	0	0	0	0	NA
Trust assigned	1	1	0	0	0	0	0	0	0	0	0	0	0	0	NA

Table 2

There were no cases of MRSA bacteraemia in July 2019 (table 2). In the first 4 months of 2019/20 there have been 0 cases.

1.3 MSSA bacteraemia

There were 18 cases of MSSA bacteraemia in July 2019; 4 of which were classed as trust-apportioned (table 3). In the first 4 months of 2019/20 there have been 13 trust-apportioned MSSA bacteraemia cases.

MSSA	Total 2018/19	Aug 18	Sep 18	Oct 18	Nov 18	Dec 18	Jan 19	Feb 19	Mar 19	Apr 19	May 19	Jun 19	July 19	Total 2019/20 to date	Target for 2019/20
Total cases	134	13	10	9	8	12	10	8	11	12	12	17	18	59	NA
Not trust apportioned	92	9	6	5	6	8	7	5	7	9	11	12	14	46	NA
Trust apportioned	42	4	4	4	2	4	3	3	4	3	1	5	4	13	NA

Table 3

Whilst there is no external target for MSSA, the trust has set an internal target to maintain the 15% reduction of *Staphylococcus aureus* infections based on the 2016/17 baseline. This means no more than 35 combined MRSA and MSSA trust-apportioned cases in total. The trust is currently slightly over trajectory for this. Enhanced training for Aseptic Non-Touch Technique (ANTT) is being implemented across the trust for all relevant staff groups to address avoidable causes of MRSA and MSSA bacteraemia related to invasive procedures.

1.4 Surveillance for other healthcare-associated infections (table 4)

	Total for 18/19	July 2019	Total for 19/20
Bacteraemia due to glycopeptide-resistant enterococci	10	4	4
Bacteraemia due to <i>E. coli</i>	550	37	171
• Trust-apportioned	128	2	37
• Not trust-apportioned	422	35	134
ESBL producing coliform infections	953	75	230
• sample taken in community	599	49	144
• sample taken in our trust	354	26	86
• bacteraemias	28	3	9
Bacteraemia due to <i>Klebsiella</i> species	134	8	34
• Trust-apportioned	37	3	9
• Not trust-apportioned	97	5	25
Bacteraemia due to <i>Pseudomonas aeruginosa</i>	37	2	14
• Trust-apportioned	12	0	2
• Not trust-apportioned	25	2	12
Other alert organisms			
• invasive group A streptococcus	1	0	0

Table 4

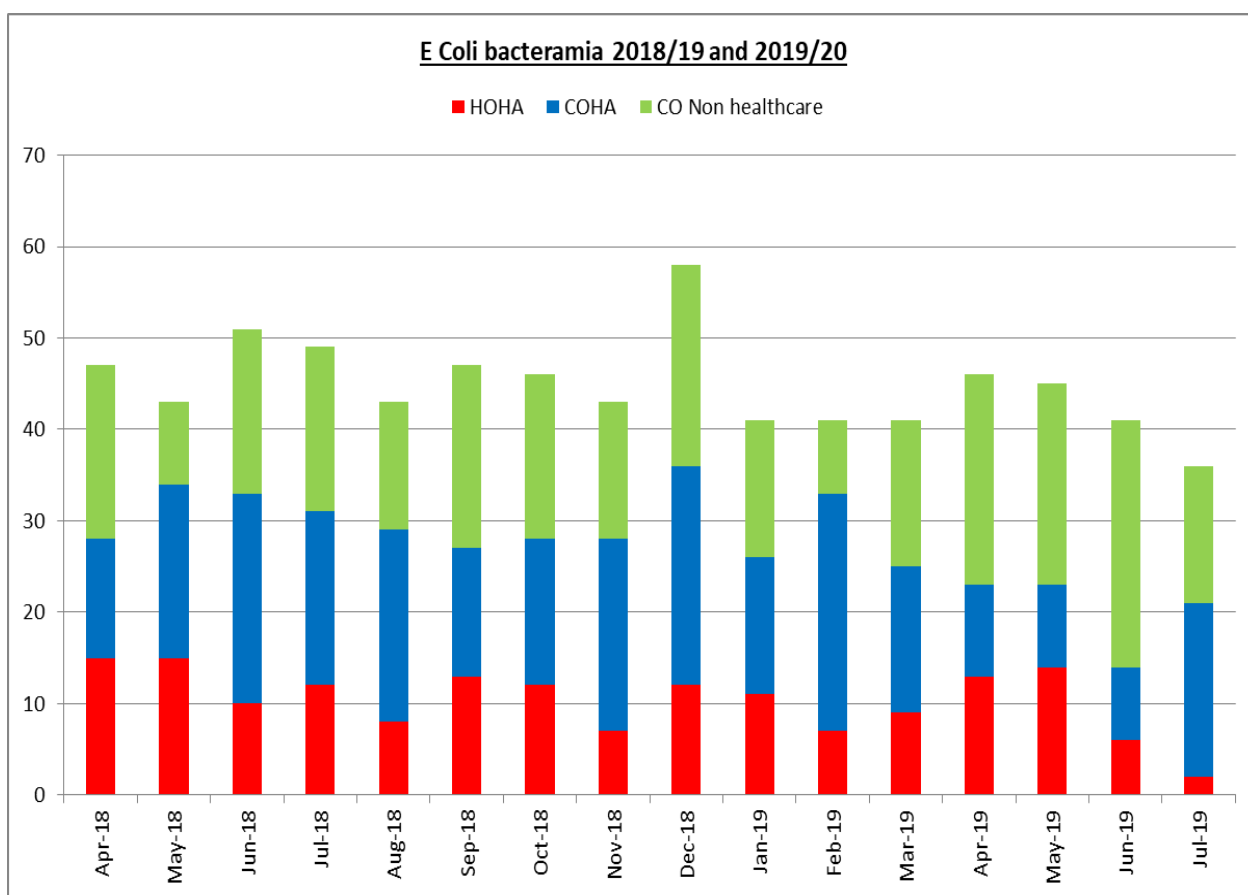
Reducing gram negative blood stream infections (GNBSI) is a national priority with the stated aim of a 50% reduction in healthcare associated GNBSI by 2022/2023.

In July 2019, the trust reported a total of 46 cases of the three GNBSI organisms which are part of national surveillance (*E.coli*, 37; *Klebsiella sp.* 8; *Pseudomonas aeruginosa* 1). Of these, 5 cases were classed as trust-apportioned (11%) as defined by the Department of Health definition. In the first 4 months of 2019/2020 there have been a total of 218 cases of the three GNBSI cases (*E.coli*, 170; *Klebsiella sp.* 34; *Pseudomonas aeruginosa* 14) and of these 48 are classed as trust-

apportioned (22%). This demonstrates the need to continue working in collaboration with the wider community as part of the Tees-wide collaborative which supports a number of initiatives within the community setting. In addition a detailed audit of 5 sets of notes per week are being audited retrospectively to ascertain patient-related contributory themes in the challenge to identify causes of *E. Coli* infections.

The trust continues to take part in the national GNBSI urinary tract infection collaborative hosted by NHS Improvement/NHS England. The focus of this improvement programme is hydration in both the community setting in the older population and care home setting with a number of resources being made available as well as specific hydration campaigns. This work is being led by a post holder working with the IPC team, currently hosted by the trust and funded through health and social care funding the 'Better Care Fund'. Initiatives in the community will be emulated and implemented within the acute trust in order to reduce these infections.

Graph 2 – E Coli bacteraemia cases 2018/19 and 2019/20



Graph 2: note that the definition of cases above is based upon information available to the infection control team. Information around community healthcare interventions may be incomplete overestimating the proportion of CO non-healthcare-associated cases as defined by the PHE definition.

Antimicrobial Stewardship

The trust is continuing with a number of antimicrobial stewardship initiatives including the ARK project.

The antibiotic guidelines are being developed into a user-friendly app with an anticipated implementation from August 2019. The “Antibiotic Sepsis/ Infection (not sepsis)” poster was

released in January 2019. The change in guidance carries a potential risk of increased cases of *C. difficile* as it could lead to an increase in appropriate prescribing of broad-spectrum antibiotics.

The antimicrobial CQUIN for 2019/20 focuses on 3 areas:

1. Diagnosis and antibiotic prescribing for lower urinary tract infections.
2. Antibiotic prophylaxis for colorectal surgery.
3. Diagnosis and antifungal prescribing for systemic fungal infections.

The antimicrobial pharmacy team are currently performing audits for these CQUINs, but there are significant challenges.

Environmental Cleaning

The average cleaning scores by month are as follows (table 5):

The James Cook Site:

Risk Category	NSC Target	Aug 18	Sept 18	Oct 18	Nov 18	Dec 18	Jan 19	Feb 19	Mar 19	Apr 19	May 19	Jun 19	Jul 19
High Risk	95%	98%	98%	98%	98%	98%	98%	98%	99%	99%	99%	99%	98.55%
Significant Risk	85%	97%	97%	97%	97%	97%	96%	97%	98%	97%	97%	98%	96.98%
Low Risk	75%	94%	94%	95%	95%	95%	94%	95%	96%	96%	95%	96%	95.76%

Table 5

Cleaning scores have been maintained on the JCUH site (table 5). No areas failed C4C inspection in July 2019 on the James Cook site. Maintaining cleaning standards remains an area of continued focus in conjunction with our service provider SERCO. Ward 7 and Victoria ward at the Friary are currently of particular concern as there have recently been several cases of *C.difficile* associated with these wards. Audits and measures to mitigate risk of further *C.difficile* cases have been undertaken.

The monthly cleaning standards review meetings continue to be led by the Director of Estates and cleaning scores continue to be monitored via IPAG.

The Friarage, Friary, East Cleveland and Redcar Primary Care Hospital (table 6):

Risk Category	NSC Target	FHN Site	Friary	East Cleveland	Redcar PCH
Very High Risk	98%	99.04%	99%		98%
High Risk	95%				95%
Significant Risk	85%	98.17%			85%
Low Risk	75%	99.16%			75%

Table 6

2. OUTBREAKS OF DIARRHOEA AND VOMITING

Diarrhoea & vomiting outbreaks	Annual total 18/19	Aug 18	Sep 18	Oct 18	Nov 18	Dec 18	Jan 19	Feb 19	Mar 19	Apr 19	May 19	Jun 19	Jul 19	Total 1920 to date
Total number	1	0	0	0	0	0	0	1	0	0	0	0	0	0
Total number of patients affected	1	0	0	0	0	0	0	1	0	0	0	0	0	0
Total number of staff affected	12	0	0	0	0	0	0	12	0	0	0	0	0	0

Table 7

There were no outbreaks of diarrhoea and vomiting in July 2019 (table 7).

3. OUTBREAK OF GES – CARBAPENEMASE-PRODUCING MULTI-DRUG-RESISTANT PSEUDOMONAS AERUGINOSA INfection IN ICU2/3, GHDU, WARDS 4 AND 24HDU AND OTHER AREAS

During July 2019, we have not identified any further patients who have the *GES-carbapenemase-producing Pseudomonas aeruginosa* infection. We believe the three cases detected in early 2019 were infected during the outbreak in 2014/2015.

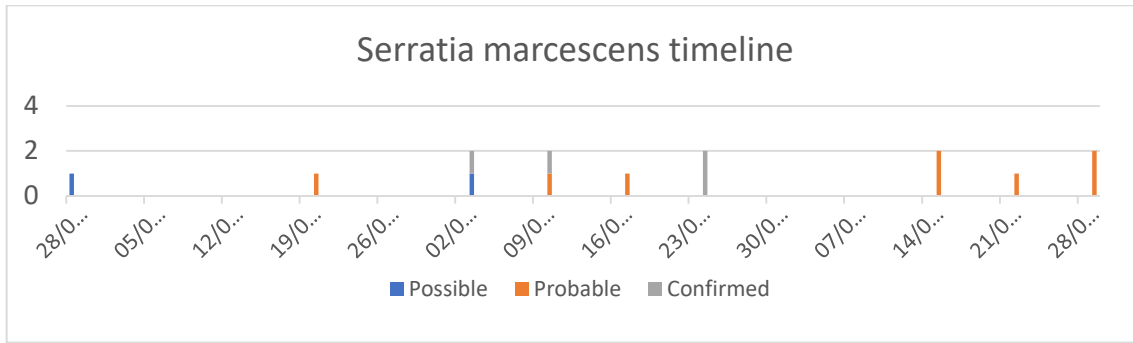
In total there have been 24 confirmed patients identified who are colonised or infected with a GES carbapenemase-producing strain of *Pseudomonas aeruginosa* in our trust since November 2014.

4. OXA-48-CARBAPENEMASE-PRODUCING KLEBSIELLA PNEUMONIAE

Acute trusts across Teesside have seen an increase in patients affected by a single strain of oxa-48 carbapenemase-producing *Klebsiella pneumoniae* over the last year. In June 2019 we did not identify any further cases that carried the strain which has been linked to this cluster. We do not believe transmission has occurred unknowingly in our trust. An extensive contact screening programme has only identified one case.

5. OUTBREAK OF SERRATIA MARCESCENS ON CARDIOTHORACIC ICU AND HDU

In July we found that our surveillance system for potential clusters of gram negative bacteria had identified that 4 patients who had been treated in Cardiothoracic ICU and/or HDU had been colonised or infected with the same strain of *Serratia marcescens*. Further investigations have determined that we have had 4 further patients who are probably affected by the outbreak strain (awaiting strain typing) and 7 cases which have subsequently been found to be unlinked. The timeline of outbreak cases is shown in graph 3. Several meetings have been held and a detailed action plan has been developed. Environmental sampling has identified *Serratia marcescens* from a sink area where there is damage to the wall behind the sink. The Cardiothoracic ICU, HDU and ward have undergone a deep clean and hydrogen peroxide fogging and replacement of the contaminated sink and a comprehensive action plan is in place addressing potential influencing relating to clinical practice and the environment.



Graph 3

Detailed investigations has identified that the current outbreak is probably limited to patients who have been through the cardiothoracic ICU and HDU. However, we have identified 2 patients on ward 33 (haematology) who have had bacteraemias due to *Serratia marcescens*, we have subsequently determined that they are not linked to each other and unlikely to be linked to the cardiothoracic patients. We have also identified that there was a cluster of 5 patients with *Serratia marcescens* in sputum in March and April 2019 on ICU2 and ICU3, but this was a different strain to that affecting Cardiothoracic ICU and HDU patients. Therefore that is not linked to the current outbreak.

6. OTHER CRITICAL CARE SURVEILLANCE

Isolation capacity for patients with infection continues to pose a challenge particularly on ICU2 and ICU3 and Cardiothoracic ICU. Processes to mitigate risk of transmission continue to be put in place including increased presence of the IPC team to support staff.

During June and July there were 26 occasions when we were unable to isolate patients due to the unavailability of side rooms (across the critical care footprint, including specialist critical care units). When this occurs we ensure all risk reduction strategies are put in place. Effective use of aprons, gloves, gowns and other personal protective equipment, with the visual prompt of the PPE trolley displaying a green 'STOP' sign alerting staff not to enter the bed space. Strict hand hygiene, equipment decontamination and any condition specific devices (e.g. faecal collector) are put in place.

We have requested an external architecture and healthcare planning specialist team to review critical care facilities and provide an options appraisal for increasing isolation facilities, this is planned for September.

- In July 2019, we have not identified any cases of MRSA transmission of colonisation or infection on Critical Care.
- In July 2019, we had no cases of HOHA *C. difficile* infection on Critical Care.
- In July 2019, one case of healthcare-onset GNBSI in Critical Care have been identified.
- In July 2019 we identified 3 patients on cardiothoracic ICU who were colonised or infected with *Stenotrophomonas maltophilia*. Strain typing has demonstrates no link between the cases. However they have been discussed at the *Serratia marcescens* outbreak and the actions being taken would also address possible transmission of this organism. Environmental sampling has not identified this organism.

7. ENTEROBACTER CLOACAE ON NEONATAL UNIT

In July 2019 we identified 3 patients on the neonatal unit who were colonised or infected with *Enterobacter cloacae*. Strain typing has been requested to determine if the cases are linked. An outbreak meeting has been held as a precautionary measure and a number of actions to minimise potential future risk to patients are being carried out.

8. BACTERAEMIA DUE TO GLYCOPEPTIDE-RESISTANT ENTEROCOCCI ON WARD 33

In July 2019 we identified 3 patients on ward 33 (haematology) who had developed bacteraemia due to Glycopeptide-resistant *Enterococcus*. The most likely cause of the bacteraemias is infection of tunnelled central lines. Strain typing has been requested to determine if the cases are linked. An outbreak meeting has been held as a precautionary measure and a number of actions to minimise potential future risk to patients are being carried out.

9. Enhanced actions

In response to the recent outbreaks and incidence of *Clostridium difficile* a number of further actions have been implemented and/or agreed:

- Ecolab are undertaking an external review of hand hygiene compliance across the Trust in September and we are in the process of agreeing peer review assessment of cleaning practices with Serco.
- We have agreed to utilise measures to provide additional assurance of cleaning standards in augmented care areas using UV light and this will begin in September 2019.
- Develop a more collaborative approach with Serco in terms of education delivery and audits, we have commenced IPC and Serco joint monitoring in augmented care areas (this is a recent development and we will review effectiveness).
- Decant and deep clean of Ward 7 in September and a review of the deep clean programme for 2019/20.
- Weekly DIPC / Dep. DIPC Matron IPC huddles.

Board of Directors	
Agenda item	Agenda item 11, ENC 6
Title of Report	Safe Staffing Report – Nursing and Midwifery
Date of Meeting	3 September 2019
Presented by	Gill Hunt, Director of Nursing and Quality
Author	Eileen Aylott, Assistant Director of Nursing, Workforce
Approved by	Gill Hunt, Director of Nursing and Quality
Previous Committee/Group Review	
Purpose	<p>Approval <input type="checkbox"/> Decision <input type="checkbox"/></p> <p>Discussion <input type="checkbox"/> Information <input checked="" type="checkbox"/></p>
Alignment to Trust's Strategic Objectives	<p><input checked="" type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience</p> <p><input checked="" type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care</p> <p><input type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future</p> <p><input checked="" type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice</p> <p><input type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability</p>
Alignment to Board Assurance Framework	BAF risk 2.2 Ensuring on-going compliance with the Care Quality Commission Regulations and Standards (Health and Social Care Act 2008 and Regulations 2014)
Legal/Regulatory Compliance Requirements (if applicable)	<ul style="list-style-type: none"> • Care Quality Commission • NHS Improvement • NHS England
Recommendation(s)	The Board of Directors are asked to receive this report for information and note the content of this report.

1. Executive Summary

South Tees Hospitals NHS Foundation Trust is committed to ensuring that levels of nursing staff, which includes Registered Nurses (RN), Midwives (RM) and Health Care Support Workers (HCSW), matches the acuity and dependency needs of patients within the organisation. To ensure there is an appropriate level and skill mix of staff to provide safe and effective high quality care.

The requirement to publish nursing and midwifery staffing levels on a monthly basis is explicit and is one of the ten expectations specified by the National Quality Board (2013 and 2016).

From April 2019 all staffing reports presented to the Board must comply with NHSI Workforce Safeguards and require a signed declaration by the Director of Nursing or appropriate Director for the staff group (s).

The fill rate against planned rosters for the month of July 2019 at an overall level was:

- RN / RM day shift 89.2% night shift 90.9%
- HCSW day shift 94.3% night shift 107.6%

2. Recommendation

The Board of Directors are asked to receive this report for information and note the content of this report.

Workforce Safeguard Compliance and Governance

Signature
2019



Date 18 August

Gill Hunt, Director of Nursing and Quality

1. UNIFY Safe Staffing Return

The Trust's safer staffing submission to UNIFY for July 2019 was submitted on 15th August 2019 with the summary of overall fill rate in the table below with the full report in Appendix 1.

Table 1 – Overall UNIFY Return fill Rate 2019

2019	DAYS Average fill rate - RN/RMs (%)	DAYS Average fill rate - HCA (%)	NIGHTS Average fill rate - RN/RMs (%)	NIGHTS Average fill rate - HCA (%)
January 2019	96.8%	94.0%	96.0%	106.4%
February 2019	93.7%	94.7%	94.3%	108.4%
March 2019	92.8%	91.2%	94.2%	106.6%
April 2019	94.2%	94.7%	95.8%	105.8%
May 2019	92.7%	92.3%	95.4%	110.3%
June 2019	92.1%	96.5%	95.6%	111.6%
July 2019	89.2%	90.9%	94.3%	107.6%

Centre Associate Directors of Nursing lead the twice daily SafeCare meetings Monday to Friday with Clinical Matrons providing weekend leadership in this area. Temporary staffing requirements are reviewed daily together with acuity, dependency and clinical judgement to ensure safe and efficient staffing.

Specialist Nurses, Critical Care Outreach and Corporate Nurses have all supported wards with complex patients and those with higher acuity and dependency but do not appear in the fill rate. Matrons provide oversight and assurance across their areas addressing red flags and supporting decision making.

Paediatric and Midwifery teams meet daily to review staffing across the floor and move staff accordingly. Unavailability is adjusted to meet the needs of the service with managers working clinically as required to maintain safe staffing. The Paediatric wards and NNU have been added to SafeCare to improve visibility.

Appendix 1. Details staffing fill rate by ward (i.e. planned versus actual), parenting and sickness percentage and a range of quality metrics by ward.

Further information in relation to wards with an RN fill rate of less than 80% is below:

1. Ward 34 planned staffing for days was 4 RN, they have worked with 3 RN's (nurse patient ratio 1: 8) with 4/5 HCA. Overnight planned staffing was 3 RN's and 4 HCA, they have worked with 2/3 RN's for an average of 25 occupied beds (ratio 1:13) and 4 HCA. The band 4 Registered Nursing Associate and Assistant Practitioners support RN colleagues. There is one AP due to qualify as an RN through the Open University and 2 newly qualified RN starting on the ward in September 2019.

2. PICU planned staffing for days and nights was 5RN but they have worked with 4 RN's for average bed occupancy of 2 maintaining safe staffing in line with patient need.
3. Ainderby Ward planned staffing for days was 4 RN, they have worked with 3 RN for an average of 18 occupied beds (ratio 1:6) maintaining safe staffing.
4. Rutson Ward planned staffing for days was 3RN, they have worked with 3 RN in the am and 2RN in the pm for an average of 12 occupied beds maintaining safe staffing.
5. Tocketts Ward planned staffing for days was 5 RN's, they have worked with 3 RN's (ratio 1:7) and nights planning 3RN and working with 2 RN (ratio 1:10.5) for an average of 21 beds occupied so safe staffing has been maintained.
6. Zetland Ward planned staffing for days was 6 RN's, they have worked with 4 or 5 RN's (ratio 1:6) for an average of 25 occupied beds maintaining safe staffing.
7. OPM planned staffing for days was 5 RN, they have worked with 3 or 4 RN's taking into account bed occupancy an RN : patient ratio on average of 1:6 was maintained.

Critical Care

Nurse staffing is monitored on a daily basis and reported on a weekly basis to ensure compliance with Guidelines for the Provision of Intensive Care Services (GPIC's). The rare occasion of non-compliance has been due to late sickness or late cancellation of temporary staff, all efforts are made to cover.

During July:

- General Critical Care – There were 2 shifts with 2 rather than 3 coordinators
- Cardiothoracic Intensive Care – there were 3 shifts without a coordinator
- Neurosurgical HDU – No gaps in staffing requirements
- Cardiothoracic HDU – No gaps in staffing requirements

Stroke Ward (W28)

If safe staffing cannot be maintained and all other options have been exhausted the escalation policy includes an option to temporarily reduce capacity. Due to RN workforce shortages 6 beds were reduced on ward 28 in July, this will be reviewed in late September when new RN's begin employment.

2. Temporary Staffing

The total number of hours for RN and HCA has remained static during July providing a 67% fill rate overall. Agency Nurses and dedicated NHSP staff have contributed to Critical care to give the trust flexibility and resilience with 740 hours of nursing agency worked across Critical Care (ITU/GHDU) and theatres.

Daily review of all shifts continues to take place during the morning SafeCare meeting with ADoN's to ensure both safe and efficient allocation of staff.

3. Red Flag Reporting

A total of 103 red flags have been reported during July. These are investigated by Clinical Matrons prior to the morning SafeCare meeting on a daily basis and action to address taken in real time. The predominant themes are Shortfall in RN time (63) and opening of 'amber' beds (31). Action taken to mitigate risk is captured on the system providing an audit trail or response to the alert.

Red Flags	Day	Early	Late	Late 6 Hour	Night	Night Duty	Grand Total
AMBER Beds Open	1	9	7		14		31
Delay in providing pain relief		1					1
Less than 2 RNs on shift			1		1	1	3
Missed 'intentional rounding'		2			1		3
RED Beds Open		2					2
Shortfall in RN time	1	25	24	1	12		63
Grand Total	2	39	32	1	28	1	103

Amber beds are used as part of routine escalation during surge and are managed within planned staffing levels. The system alerts the matron to the opening of amber beds which ensures the matron can support patient flow as required.

The system records 3 counts per day so an escalation bed may only be open for part of a day and then reclosed.

4. Redeployed staff

SafeCare gives the Trust the ability to redeploy staff from an area with excess hours to one which is short using the acuity and dependency calculation to support patient care and ensure effective use of resource. During the month of July a total of 848 hours were redeployed across adult inpatient areas via SafeCare.

5. Care Hours Per Patient Day (CHPPD)

CHPPD is a national measurement recorded monthly through the UNIFY safe staffing report and is a Model Hospital metric. Triangulation between hours planned vs hours worked in this report should be considered with CHPPD and professional judgement to ensure areas have safe and efficient levels of staffing. The Model Hospital metric also provides the Trust with a peer review option to enable us to compare with hospitals of a similar size and complexity as well as the National trend.

The latest Trust results published on the Model Hospital website are from April 2019 and were 8.9 against a peer group median of 8.4 and a national median of 8.1.

Work to determine optimum CHPPD based on typical acuity and dependency per ward will be complete in the coming weeks and the October monthly report will include actual CHPPD versus optimum.

6. Band 5 Vacancy Rate and Recruitment Activity

The Trust continues to actively recruit to all Band 5 RN/RM's posts and has an advert running for Adult Student Nurses Qualifying in January /March 2020. Interviews are planned for October. With the expansion work in ITU and Theatres the number of band 5 vacancies has increased and a confirmed international recruitment campaign has begun with NHSP to recruit a total of 50 Adult Registered Nurses from the Philippines and India, targeting nurses with skills and experience in both hard to recruit to areas and those areas with increased demand.

7. Staff Retention

The Trust has been invited to take part in the final wave of the Retention Support Programme by NHSI to begin in September 2019. This is the final round for the Trusts who were not mandated to attend the previous programmes.

8. Workforce Safeguards

Establishment reviews presented at the June 2019 Board meeting recommended investment in midwifery, paediatric in-patient wards and a number of areas in the Specialist and Planned footprint, an update is detailed below.

- The recommended direct care element following the external Birthrate Plus assessment has been taken into account in 2019/20 baseline budget setting. A business case for the remaining element is being considered as part of current business case prioritisation.
- A business case has been produced in relation to staffing in the paediatric wards following two SNCT reviews and this is being considered as part of current business case prioritisation.
- Recommendations for the Planned and Specialist care centre are to be addressed as part of the current bed reconfiguration programme. Safe staffing is being maintained using temporary resource as acuity and dependency dictates and this is being closely monitored.

Further 6 monthly staffing reviews have been completed and will be presented at the next Workforce Committee. This cycle includes both adult and paediatric inpatient areas, theatres and the Emergency Department. The papers include benchmarking against national standards, use of recommended validated tools, professional judgement and outcome measures.

Eileen Aylott
Assistant Director of Nursing Workforce
August 2019

References

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Safe, sustainable and productive staffing in maternity services https://nhsicorporatesite.blob.core.windows.net/green/uploads/documents/Safe_Staffing_Maternity_final_2.pdf

Safe, sustainable and productive staffing for neonatal care and children and young people's services https://nhsicorporatesite.blob.core.windows.net/green/uploads/documents/Safe_Staffing_Neonatal_mYLJCHm.pdf

Safe, sustainable and productive staffing in urgent and emergency care https://nhsicorporatesite.blob.core.windows.net/green/uploads/documents/Safe_Staffing_urgent_and_emergency_care.pdf

Appendix 1 JCUH

		Hours								< 80	80-95	> 95																
		Planned RN days	Actual RN days	Planned HCA days	Actual HCA days	Planned RN Nights	Actual RN nights	Planned HCA nights	Actual HCA nights	DAYS Average fill rate - RN/RMs (%)	DAYS Average fill rate - HCA (%)	NIGHTS Average fill rate - RN/RMs (%)	NIGHTS Average fill rate - HCA (%)	Parenting	Sickness	Parenting	Sickness	In Patient	Formal cor	Grade 2 Trust Pressure Ulcers	Grade 3 Trust Pressure Ulcers	CHPPD	Registered Midwives/ Nurses	Care Staff	Overall			
UEC	Critical Care	10,405.78	10,024.28	2,593.83	2,284.33	10,416.00	9,661.00	1,116.00	900.00	96.3%	88.1%	92.8%	80.6%	8.20%	2.60%	2.90%	6.40%	0	1	8	0	863	22.8	3.7	26.5			
UEC	RAFAU	2,616.00	2,154.50	1,684.17	1,869.00	1,116.00	1,092.00	1,277.67	1,593.00	82.4%	111.0%	97.8%	124.7%	3.90%	11.40%	5.40%	1.30%	8	0	0	0	831	3.9	4.2	8.1			
SP&PL	JC06 Gastro	1,426.25	1,305.75	1,778.17	1,614.92	1,069.50	1,036.00	713.00	1,037.42	91.6%	90.8%	96.9%	145.5%			2.30%	5.00%	3	0	3	0	751	3.1	3.5	6.6			
COM	JC09 (Ward 9)	1,852.17	1,488.42	1,481.83	1,330.50	1,200.00	1,080.00	1,114.25	1,102.25	80.4%	89.8%	90.0%	98.9%		4.20%		21.70%	2	1	2	0	809	3.2	3.0	6.2			
COM	OPM (Older Persons Medicine)	1,857.82	1,300.08	2,236.93	1,893.10	1,116.17	960.17	1,123.00	1,410.17	70.0%	84.6%	86.0%	125.6%	16.30%	3.80%	3.50%	17.60%	7	0	1	0	540	4.2	6.1	10.3			
COM	JC28 (Ward 28)	1,859.83	1,493.83	1,113.50	1,008.75	1,488.00	1,284.00	744.00	776.00	80.3%	90.6%	86.3%	104.3%	11.40%	1.10%	6.70%	3.40%	2	1	0	0	431	6.4	4.1	10.6			
COM	Ward 3	1,427.00	1,403.50	1,785.17	1,802.17	1,066.67	1,007.33	721.17	861.00	98.4%	101.0%	94.4%	119.4%		2.50%		7.80%	6	0	2	0	839	2.9	3.2	6.0			
UEC	Short Stay (JC02)	1,860.00	1,752.00	1,488.00	1,569.92	1,488.00	1,392.00	1,116.00	1,261.25	94.2%	106.5%	93.5%	113.0%		1.00%		11.20%	5	0	1	0	758	4.1	3.7	7.9			
SP&PL	Ward 5 Surgery	2,082.42	1,838.67	1,689.25	1,431.92	1,032.00	1,008.00	1,032.00	1,036.67	88.3%	84.8%	97.7%	100.5%	4.40%	2.50%	7.60%	7.90%	0	0	0	0	750	3.8	3.3	7.1			
SP&PL	JC35 (Ward 35)	1,116.00	1,343.00	1,488.00	1,206.92	744.00	744.00	735.75	801.67	120.3%	81.1%	100.0%	109.0%	13.10%	5.10%		22.40%	1	0	0	0	604	3.5	3.3	6.8			
SP&PL	JC31 Vas	1,116.00	1,346.00	1,481.25	1,390.25	744.00	756.00	744.00	743.08	120.6%	93.9%	101.6%	99.9%	15.80%	3.50%		11.10%	0	0	0	0	469	4.5	4.5	9.0			
SP&PL	Ward 7 Colo	1,864.25	1,577.83	1,854.67	1,674.00	1,116.00	1,056.00	744.00	811.33	84.6%	90.3%	94.6%	109.1%	8.70%	6.00%		4.50%	4	0	1	0	800	3.3	3.1	6.4			
SP&PL	JC04 (Ward 4)	1,641.92	1,467.92	1,111.08	973.42	1,116.00	980.83	744.00	845.58	89.4%	87.6%	87.9%	113.7%	5.70%	13.90%	19.40%	18.60%	5	0	0	0	603	4.1	3.0	7.1			
SP&PL	JC14 Oncology (Ward 14)	1,855.50	1,799.50	1,117.17	1,076.50	1,116.67	1,116.67	744.00	1,048.67	97.0%	96.4%	100.0%	140.9%	5.10%	4.10%	9.00%	7.60%	3	1	1	0	739	3.9	2.9	6.8			
SP&PL	JC33 Speciality (merger of ward 18 and ward 27)	1,488.00	1,194.00	1,490.00	1,368.00	1,116.00	1,056.00	744.00	914.25	80.2%	91.8%	94.6%	122.9%		8.50%	7.00%	9.00%	4	0	2	0	564	4.0	4.0	8.0			
SP&PL	JC34 (Ward 34)	1,540.50	1,019.67	2,225.33	1,838.00	1,199.75	799.42	1,488.00	1,691.00	66.2%	82.6%	66.6%	113.6%	12.50%	7.20%		8.00%	0	1	0	0	788	2.3	4.5	6.8			
SP&PL	JC25 Elective Ortho	1,066.50	992.50	1,056.50	1,092.30	714.33	714.33	356.50	533.00	93.1%	103.4%	100.0%	149.5%	13.50%		10.30%	2.60%	2	0	1	0	590	2.9	2.8	5.6			
SP&PL	JC36 Trauma	1,859.82	1,747.15	1,861.50	1,715.83	1,117.67	1,069.67	1,122.85	1,212.08	93.9%	92.2%	95.7%	107.9%	5.70%	2.90%	6.20%	7.80%	0	0	0	0	967	2.9	3.0	5.9			
SP&PL	Spinal Injuries	2,493.75	2,038.32	1,907.60	1,649.32	1,488.00	1,374.00	1,116.00	1,092.00	81.7%	86.5%	92.3%	97.8%	6.90%	14.70%	3.40%	6.20%	0	0	0	0	604	5.6	4.5	10.2			
SP&PL	Cardio MB	744.00	744.00	372.00	330.00	744.00	744.00	0.00	0.00	100.0%	88.7%	100.0%	-				9.50%	0	0	0	0	248	6.0	1.3	7.3			
SP&PL	CCU JCUH	2,664.00	2,152.17	370.08	437.33	1,860.00	1,812.00	0.00	0.00	80.8%	118.2%	97.4%	-	3.50%	3.30%			2	0	0	0	316	12.5	1.4	13.9			
UEC	CICU JCUH	4,020.83	3,519.33	1,300.50	540.00	3,660.00	3,564.00	744.00	360.00	87.5%	41.5%	97.4%	48.4%	5.60%	4.60%	6.70%	22.90%	0	0	0	0	272	26.0	3.3	29.4			
SP&PL	JC24 (Ward 24)	1,516.17	1,426.17	1,190.50	1,885.83	1,116.67	1,062.25	744.00	1,653.17	94.1%	158.4%	95.1%	222.2%	2.20%	8.90%		3.60%	8	1	1	0	685	3.6	5.2	8.8			
SP&PL	JC27 Neuro	1,457.67	1,489.42	1,176.83	1,356.25	744.67	748.50	970.00	1,264.67	102.2%	115.2%	100.5%	130.4%		4.10%		5.50%	4	0	0	0	457	4.9	5.7	10.6			
SP&PL	JC26 (Ward 26)	1,135.67	1,066.33	743.83	1,028.67	744.33	744.33	372.00	720.00	93.9%	138.3%	100.0%	193.5%	9.10%		0.90%	0.90%	0	0	0	0	553	3.3	3.2	6.4			
SP&PL	JC29 (Ward 29)	1,490.50	1,412.50	1,115.67	1,008.17	1,116.00	1,092.00	744.00	755.67	94.8%	90.4%	97.8%	101.6%	0.30%	2.70%	9.90%	4.80%	0	0	0	0	740	3.4	2.4	5.8			
SP&PL	JCCT (Ward 32)	1,974.00	1,615.50	1,228.08	1,146.83	1,115.83	1,043.83	744.00	755.83	81.8%	93.4%	93.5%	101.6%	9.90%	6.10%			11	1	0	2	627	4.2	3.0	7.3			
UEC	Cardio HDU	2,100.08	1,934.67	372.00	372.00	1,704.00	1,500.00	372.00	372.00	92.1%	100.0%	88.0%	100.0%	3.90%	4.00%			1	0	0	0	225	15.3	3.3	18.6			
SP&PL	Ward 8	1,863.75	1,645.00	1,862.25	1,517.42	1,116.00	1,092.00	744.00	780.33	88.3%	81.5%	97.8%	104.9%	4.60%	7.80%	7.30%	5.30%	3	2	1	0	827	3.3	2.8	6.1			
UEC	JC24 HDU	1,492.25	1,402.75	372.00	366.00	1,488.00	1,421.00	372.00	372.40	94.0%	98.4%	95.5%	100.1%	2.20%	8.90%		3.60%	0	0	1	0	224	12.6	3.3	15.9			
COM	JC21 (Ward 21)	2,244.00	2,086.00	559.50	574.50	2,232.00	1,866.00	372.00	288.00	93.0%	102.7%	83.6%	77.4%	0.70%	2.80%	13.20%	3.90%	0	0	0	0	446	8.9	1.9	10.8			
COM	JC22 (Ward 22)	1,107.25	1,139.00	588.25	481.00	1,020.00	983.50	96.00	108.00	102.9%	81.8%	96.4%	112.5%		3.70%		3.60%	0	0	0	0	245	8.7	2.4	11.1			
COM	JCDS (Central Delivery Suite)	3,714.00	3,660.25	1,484.00	779.17	4,084.50	3,802.00	1,112.25	694.55	98.6%	52.5%	93.1%	62.4%	1.30%	2.60%		2.50%	0	0	0	0	621	12.0	2.4	14.4			
COM	Neonatal Unit	5,752.50	4,993.75	372.00	204.00	5,208.00	4,786.00	0.00	192.00	86.8%	54.8%	91.9%	-	9.30%	5.00%	37.00%	5.90%	0	0	0	0	833	11.7	0.5	12.2			
COM	Paediatric Intensive Care Unit (PICU)	1,860.00	1,457.00	232.50	193.50	1,860.00	1,461.00	0.00	0.00	78.3%	83.2%	78.5%	-	0.70%	8.00%			0	0	0	0	71	41.1	2.7	43.8			
COM	Ward 17 JCUH	2,231.83	1,927.83	1,115.83	1,056.13	1,488.33	1,500.33	1,097.33	1,013.33	86.4%	94.6%	100.8%	92.3%	18.60%	1.40%	8.30%	1.10%	0	0	0	0	844	4.1	2.5	6.5			
COM	Ward 19 Ante Natal	1,257.00	1,040.80	310.00	242.00	743.67	719.67	0.00	0.00	82.8%	-	96.8%	-	2.80%				0	0	0	0	264	6.7	0.9	7.6			
									Site average	90.5%	92.9%	93.9%	113.3%															

FHN		Hours								DAYS Average fill rate - RN/RMs (%)	DAYS Average fill rate - HCA (%)	NIGHTS Average fill rate - RN/RMs (%)	NIGHTS Average fill rate - HCA (%)	Parenting	Sickness	Parenting	Sickness	In Patient Falls	Formal complaints	Grade 2 Trust Pressure Ulcers	Grade 3 Trust Pressure Ulcers	CHPPD	Registered Midwives/Nurses	Care Staff	Overall
		Planned RN days	Actual RN days	Planned HCA days	Actual HCA days	Planned RN Nights	Actual RN nights	Planned HCA nights	Actual HCA nights																
UEC	Ainderby FHN	1,398.08	1,097.58	1,066.50	1,032.00	713.33	724.83	713.00	713.00	78.5%	96.8%	101.6%	100.0%		4.30%		7.30%	1	0	2	0	558	3.3	3.1	6.4
UEC	Romanby FHN	1,521.47	1,247.07	1,161.00	1,203.50	713.00	726.50	713.33	776.00	82.0%	103.7%	101.9%	108.8%	7.50%	7.20%		9.60%	7	0	0	0	601	3.3	3.3	6.6
COM	Rutson FHN	1,147.50	915.50	2,049.50	925.00	713.00	713.00	715.00	715.00	79.8%	45.1%	100.0%	100.0%	7.40%	1.00%		9.50%	2	0	0	0	364	4.5	4.5	9.0
SP&PL	Gara Orthopaedic FHN	848.50	752.50	750.02	600.52	713.00	610.00	356.50	317.00	88.7%	80.1%	85.6%	88.9%		12.10%		12.60%	0	0	0	0	279	4.9	3.3	8.2
COM	Maternity FHN	995.00	882.50	328.50	335.50	744.00	702.00	0.00	0.00	88.7%	102.1%	94.4%	-	8.70%			0	0	0	0	26	60.9	12.9	73.8	
Site Average										83.5%	85.6%	96.7%	99.4%												

East Cleveland		Hours								< 80	80-95	> 95	DAYS Average fill rate - RN/RMs (%)	DAYS Average fill rate - HCA (%)	NIGHTS Average fill rate - RN/RMs (%)	NIGHTS Average fill rate - HCA (%)	Parenting	Sickness	Parenting	Sickness	In Patient Falls	Formal complaints	Grade 2 Trust Pressure Ulcers	Grade 3 Trust Pressure Ulcers	CHPPD	Registered Midwives/ Nurses	Care Staff	Overall
		Planned RN days	Actual RN days	Planned HCA days	Actual HCA days	Planned RN Nights	Actual RN nights	Planned HCA nights	Actual HCA nights																			
COM	Tocketts Ward East Cleveland Hospital	1,823.75	944.00	2,735.92	1,814.40	1,069.83	817.83	1,426.33	1,288.33	51.8%	66.3%	76.4%	90.3%		17.0%		3.6%	0	0	1	0	645	2.7	4.8	7.5			
Site Average										51.8%	66.3%	76.4%	90.3%															

Redcar		Hours								< 80	80-95	> 95	DAYS Average fill rate - RN/RMs (%)	DAYS Average fill rate - HCA (%)	NIGHTS Average fill rate - RN/RMs (%)	NIGHTS Average fill rate - HCA (%)	Parenting	Sickness	Parenting	Sickness	In Patient Falls	Formal complaints	Grade 2 Trust Pressure Ulcers	Grade 3 Trust Pressure Ulcers	CHPPD	Registered Midwives/ Nurses	Care Staff	Overall
		Planned RN days	Actual RN days	Planned HCA days	Actual HCA days	Planned RN Nights	Actual RN nights	Planned HCA nights	Actual HCA nights																			
COM	Zetland	2,743.83	1,688.17	3,432.83	2,780.50	1,116.00	1,068.00	1,116.00	1,260.00	75.2%	70.5%	95.7%	112.9%	0.30%	9.10%	3.60%	8.00%	6	0	1	0	789	3.5	5.1	8.6			
Site Average										75.2%	70.5%	95.7%	112.9%															

Friary Community Hospital		Hours								< 80	80-95	> 95	DAYS Average fill rate - RN/RMs (%)	DAYS Average fill rate - HCA (%)	NIGHTS Average fill rate - RN/RMs (%)	NIGHTS Average fill rate - HCA (%)	Parenting	Sickness	Parenting	Sickness	In Patient Falls	Formal complaints	Grade 2 Trust Pressure Ulcers	Grade 3 Trust Pressure Ulcers	CHPPD	Registered Midwives/ Nurses	Care Staff	Overall
		Planned RN days	Actual RN days	Planned HCA days	Actual HCA days	Planned RN Nights	Actual RN nights	Planned HCA nights	Actual HCA nights																			
COM	Friary Community Hospital	1,015.50	939.50	1,332.00	1,213.00	620.00	620.00	621.50	471.50	92.5%	91.1%	100.0%	75.9%	5.00%	3.30%		1.70%	0	0	0	0	301	5.2	5.6	10.8			
Site Average										92.5%	91.1%	100.0%	75.9%															

James Cook		Hours								< 80	80-95	> 95	DAYS Average fill rate - RN/RMs (%)	DAYS Average fill rate - HCA (%)	NIGHTS Average fill rate - RN/RMs (%)	NIGHTS Average fill rate - HCA (%)	Parenting	Sickness	Parenting	Sickness	In Patient Falls	Formal complaints	Grade 2 Trust Pressure Ulcers	Grade 3 Trust Pressure Ulcers	CHPPD	Registered Midwives/ Nurses	Care Staff	Overall
		Planned RN days	Actual RN days	Planned HCA days	Actual HCA days	Planned RN Nights	Actual RN nights	Planned HCA nights	Actual HCA nights																			
UEC	AMU JCUH	2,232.00	2,172.00	1,488.00	1,433.33	1,860.00	1,836.00	1,680.00	1,554.00	97.3%	96.3%	98.7%	92.5%	9.30%	9.90%	5.20%	11.00%	2	0	0	0	607	6.6	4.9	11.5			
UEC	AAU JCUH	2,976.00	3,006.00	1,757.67	1,628.67	1,860.00	1,812.00	1,116.00	1,273.50	101.0%	92.7%	97.4%	114.1%	10.70%	1.50%	4.90%	7.90%	7	0	1	0	579	8.3	5.0	13.3			
COM	Mat Assessment Unit	1,391.33	1,349.53	279.00	261.00	912.00	888.00	0.00	0.00	97.0%	93.5%	97.4%	-	11.20%	1.60%		5.60%	0	0	0	0	30	74.6	8.7	83.3			
FHN																												
UEC	Clinical Decisions Unit FHN	1,770.83	1,618.33	1,059.75	987.00	1,068.00	951.50	711.83	802.17	91.4%	93.1%	89.1%	112.7%	4.40%	6.60%		9.50%	1	0	0	0	454	5.7	3.9	9.6			

	< 80	80-95	> 95	
	DAYS Average fill rate - RN/RMs (%)	DAYS Average fill rate - HCA (%)	NIGHTS Average fill rate - RN/RMs (%)	NIGHTS Average fill rate - HCA (%)
<u>Trust Average</u>				
Community Care	84.9%	82.1%	91.9%	97.7%
Specialist & Planned Care	92.0%	97.4%	95.3%	123.9%
Urgent and Emergency Care	90.6%	93.4%	95.8%	101.1%
Trust Average	89.2%	90.9%	94.3%	107.6%

Board of Directors	
Agenda item	Agenda item 12, ENC 7
Title of Report	Learning from Deaths Monthly Dashboard July 2019
Date of Meeting	3 September 2019
Presented by	Medical Director
Author	Jo Raine, Data Analyst: Mortality Surveillance. Tony Roberts Deputy Director (Clinical Effectiveness)
Approved by	Andy Owens, Medical Director
Previous Committee/Group Review	Patient Safety Sub Group August 2019
Purpose	<p style="text-align: center;">Approval <input type="checkbox"/> Decision <input type="checkbox"/></p> <p style="text-align: center;">Discussion <input type="checkbox"/> Information <input checked="" type="checkbox"/></p>
Alignment to Trust's Strategic Objectives	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience <input type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care <input type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future <input type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice <input type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability
Alignment to Board Assurance Framework	This report provides assurance on the overall quality of care, as measured by hospital mortality and other clinical effectiveness indicators, delivered by the organisation. BAF Risk ID 2.1 Delivery of Safe Care
Legal/Regulatory Compliance Requirements (if applicable)	Compliance with national Learning From Deaths guidance from NHS England (https://www.england.nhs.uk/ourwork/part-rel/nqb/) and NHS Improvement (https://improvement.nhs.uk/resources/learning-deaths-nhs/)
Recommendation(s)	Board to note the hospital mortality statistics (including the unadjusted mortality rate and Summary Hospital-level Mortality Indicator), Learning from Deaths dashboard (including number of deaths judged to have a greater than 50:50 chance of being preventable), Medical Examiner service figures and learning from the mortality surveillance reviews.

Learning From Deaths Monthly Dashboard July 2019

1 Responding to Deaths

- 1.1 In March 2017 the National Quality Board published *Guidance on Learning from Deaths* (LFD)¹ and a national work programme has been established for LFD. NHS Improvement hosted a conference on 14 December 2017 LFD: One Year On and have published case studies².
- 1.2 The Trust published its *Responding to Deaths* Policy (in line with the national LFD requirements) in September 2018. It sets out the Trust's approach to learning from deaths in care: <https://www.southtees.nhs.uk/about/trust/responding-deaths-policy/> There are broadly three opportunities to learn:
 - at the time of certification of death. The Trust has established a Medical Examiner Service which commenced work in May 2018. Most deaths receive *A Medical Examiner Review* (a small number of 'unnatural' deaths may go directly to Coroners without discussion with an ME) and this includes review of the case records, discussion with the attending team and a discussion with the bereaved family
 - a *Trust Mortality Review*, is conducted, usually within weeks of a death, if any potential concerns are identified during the Medical Examiner Review and also for all deaths of patients with learning disabilities, serious mental illness, where an incident or complaint has been reported, within 30 days of a surgical procedure or where a 'mortality alert' from a range of sources has occurred.
 - at the time of investigation when a death has occurred where an incident has been reported through the Trust's incident reporting system (Datix).
- 1.3 The Learning From Deaths dashboard has been redesigned to make it more easily interpreted and reports the number of deaths, the number Medical Examiner Reviews, the number of deaths with a Trust Level Mortality Review or investigation and the number of those deaths judged to show evidence of preventability. Numbers are reported separately for patients with learning disabilities and known serious mental health illnesses. For the year to end of July 2019, there were 1,845 deaths, of which 1,674 received a review or investigation and 5 deaths were considered to be potentially avoidable. In the same period there were 13 deaths in patients with learning disabilities, all of which received a review or investigation and 0 deaths were considered to be potentially avoidable. For patients with a mental health issue, 137 were identified of which 121 have been reviewed, with 0 deaths considered potentially avoidable. Potential learning from both good care and from problems in care are outlined. Changes that are being implemented relate to better coordination and documentation of care and these will be easier to address as enhancement to the use of electronic patient records occur and the impact of these changes will also become easier to assess from digital records.

¹ <https://www.england.nhs.uk/wp-content/uploads/2017/03/nqb-national-guidance-learning-from-deaths.pdf>

² https://improvement.nhs.uk/uploads/documents/Learning_from_deaths_case_studies_Web_version.pdf

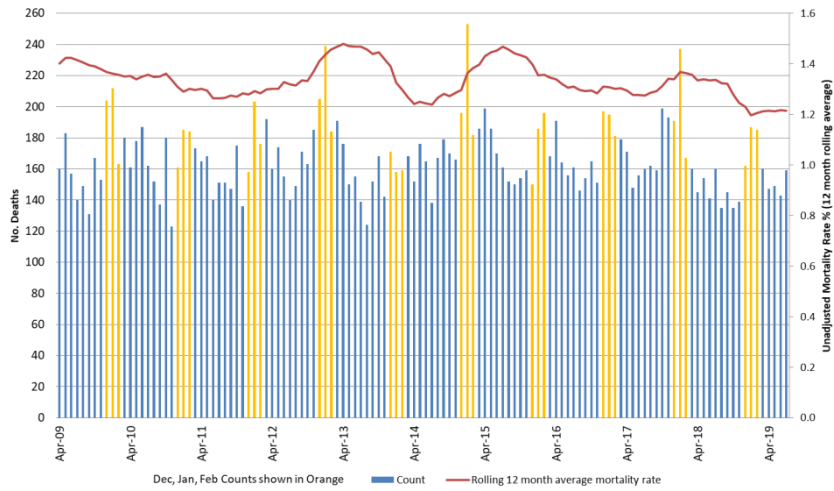
2 Mortality indicators

- 2.1 The dashboard includes the count of deaths from April 2009 to July 2019. There were 159 deaths recorded in July 2019. In the same period in 2018 160 deaths were recorded (160 deaths in May 2017)
- 2.2 The Summary Hospital-level Mortality Indicator (SHMI) includes all in-hospital deaths plus deaths within 30 days of discharge. It is published on a quarterly basis (including 12 months of data in each release) by NHS Digital and is an official government statistic. Current reporting is April 2018 – March 2019. The SHMI is the ratio of observed mortality rate/expected mortality rate (based on a statistical estimate of expected mortality). The SHMI is 108 and is 'as expected' (ie within the variation expected statistically).
- 2.3 The chart for Palliative Care Coding for April 2017 to July 2019 shows that the number of cases with the relevant codes is relatively static.
- 2.4 A breakdown of deaths per site for the Trust shows that the vast majority occur at James Cook University Hospital (79% of all deaths) At the Friarage Hospital, numbers of deaths have fallen in the last few months (though they are beginning to rise again). This may be due to recent operational changes at the Friarage. Numbers of deaths in community hospitals remain fairly static at an average of 11 deaths per month.

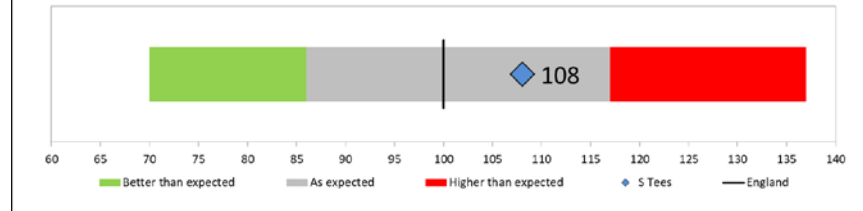
3 Next steps

- 3.1 The Learning From Deaths work was reported in the annual Quality Account published in June 2019.
- 3.2 The Medical Examiner Service has been operational since May 2018, and 83.1% of deaths have received a medical examiner review with 286 deaths being recommended for trust mortality surveillance review of which 205 have since been completed.
- 3.3 Overall, 90.7% of deaths in the year to July 2019 have received a review (medical examiner, specialty or mortality surveillance)
- 3.4 Mortality indicators will continue to be monitored. Issues around the recording of comorbidities and specialist palliative care coding are being addressed through relevant departments of the Trust.
- 3.5 This Learning From Deaths Quarterly Dashboard is a development of previous Board reporting and will continue to evolve. A longer report is considered by the Patient Safety Group who report to the Quality Assurance Committee (QAC) who report to the Board of Directors.

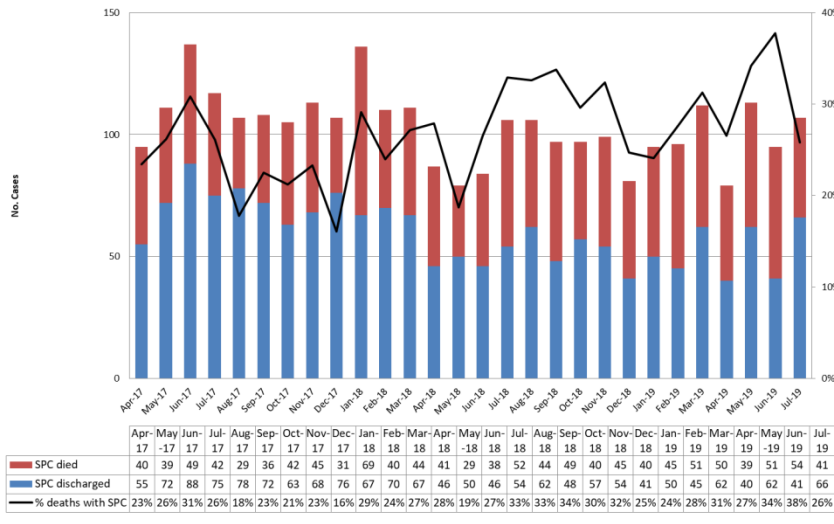
Count of deaths and 12 month average unadjusted mortality rate (%)
April 2009 - Jul 2019



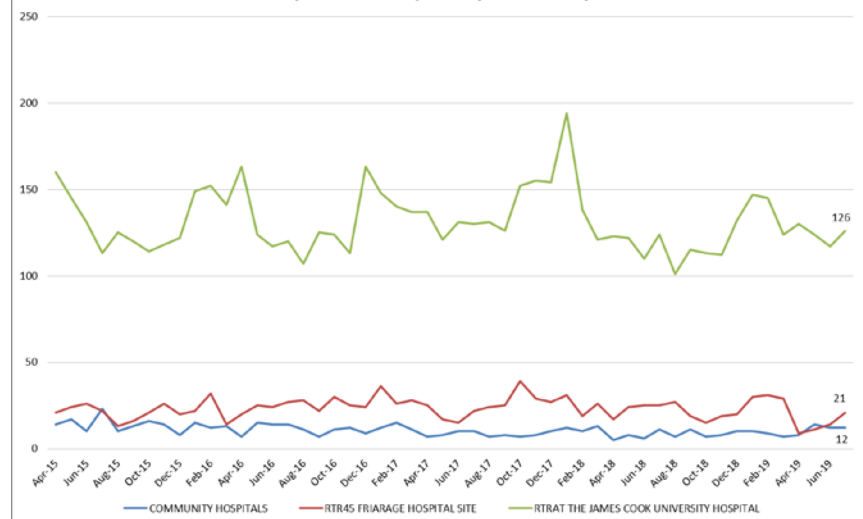
SHMI
Apr-18 to Mar-19



Specialist Palliative Care Coding (Z515) April 2017 - July 2019



In-hospital deaths by site Apr 2015 - July 2019



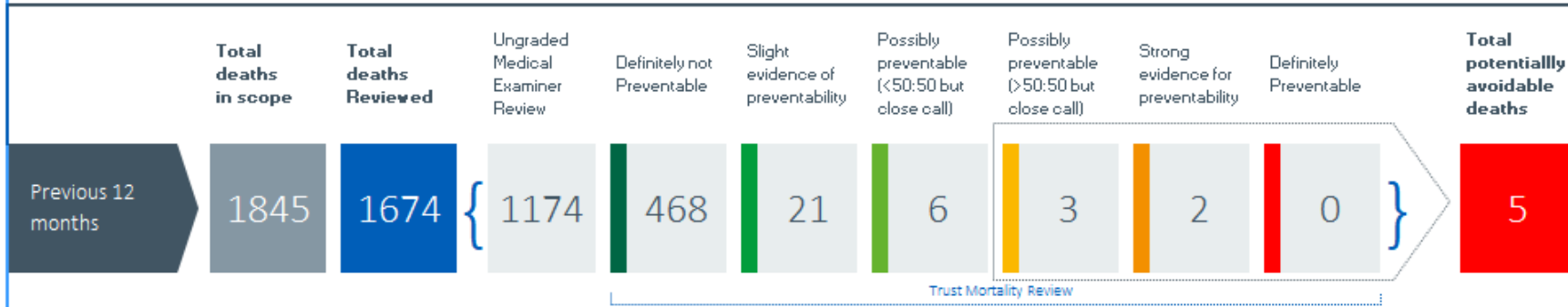
Learning from Deaths Monthly Dashboard - July 2019



South Tees Hospitals
NHS Foundation Trust

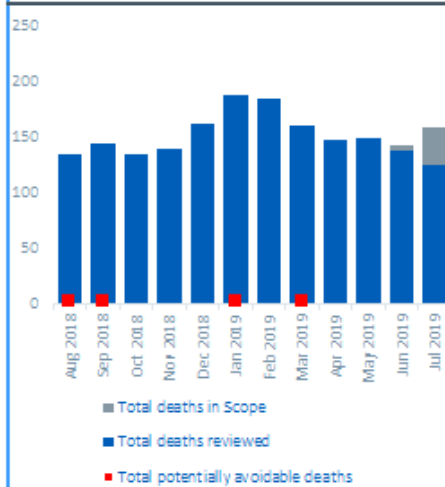
Total number of deaths reviewed and deaths judged preventable from the case notes

(includes patients with identified learning disabilities or serious mental illness) Note: This dashboard shows deaths that have received a review. In practice, some deaths may have received more than one review but they are only counted once for this dashboard



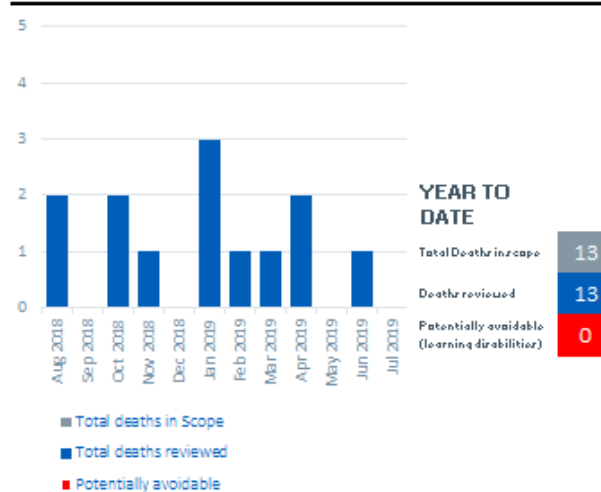
All patients:

Mortality over time, total deaths and deaths considered potentially preventable



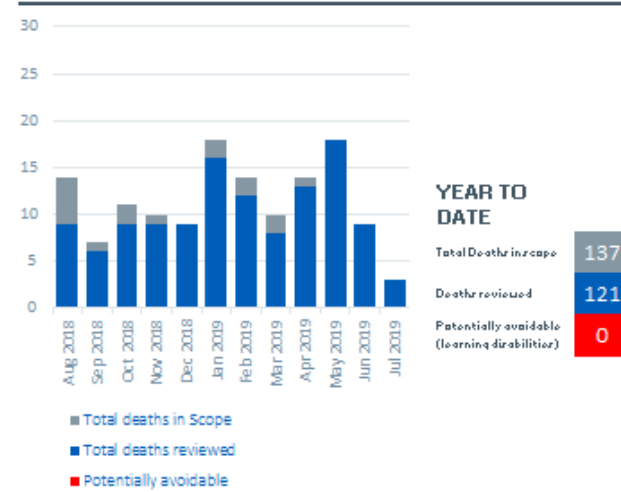
Patients with learning disabilities:

Mortality over time, total deaths and deaths considered potentially avoidable



Patients with a serious mental illness:

Mortality over time, total deaths and deaths considered potentially avoidable



Medical Examiner Service: Medical Examiner reviews - May 2018 – July 2019

No. Deaths through Medical Examiners Service: 1,971

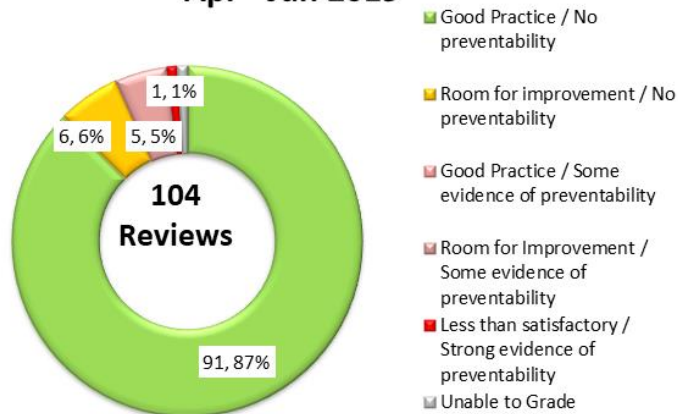
Total no. Deaths: 2,295

Summary of deaths reviewed to date

Medical Examiner Service Statistics: Month of Death May 2018 - June 2019	No. In-Hospital Deaths	Other Deaths (A&E/OOHosp)	ME Review	% Review	Recommended Trust Mort Rev	Received TMR	Specialty Review	Discussed with Coroner
May 2018 - Mar 2019	1698	44	1431	82.1%	230	199	226	269
Apr-19	146	10	144	92.3%	13	2	9	29
May-19	149	10	145	91.2%	14	2	13	25
Jun-19	143	8	129	85.4%	11	2	9	25
Jul-19	159	5	122	76.7%	18		3	25
	2295	77	1971	83.1%	286	205	260	373
% all deaths recommended Trust Mortality Review					12.1%			
% all Medical Examiner reviews recommended Trust Mortality Review					14.5%			

Of the 2,295 deaths that occurred between May 2018 and July 2019, 83.2% (1,971) passed through the Medical Examiner service. 286 deaths (12.1%) were subsequently recommended for Trust Mortality Review of which 205 have so far taken place. A further 260 deaths had a review from the Specialty involved. 373 deaths were discussed with the Coroner and a further 193 were noted as a Coroner's case.

Mortality Surveillance Reviews Apr - Jun 2019



Of the 104 deaths reviewed in the quarter, 87% of patients were judged to have received good care with no preventability, 6 cases (6%) were ruled to show no preventability with room for improvement in care. 5 cases (5%) showed some preventability with room for improvement in care. 1 death showed strong evidence for preventability. 92% of deaths were Expected.

5 cases were highlighted as identifying learning from good care (cases can appear in more than one category) and 25 cases were highlighted as identifying learning from problems in care.

Positive lessons reflected multi-specialty involvement and good advanced decision making, good communication with family and patient wishes regarding place of death being honoured. Negatives reflected incomplete documentation, inadequate filing etc., DNACPR not being completed properly or not being available/appropriately filed in HCR, delays in tests being undertaken or reported on, inappropriate transfers from community hospitals including inadequate handover, lack of ICU bed for patients too unstable to transfer elsewhere.

REVIEWS IDENTIFYING LEARNING FROM GOOD CARE		5
Good coordination of clinical care / senior input / advanced decision making		5
Good communication with family		2
Good documentation		1
Patient's stated wishes were followed		1

REVIEWS IDENTIFYING LEARNING FROM PROBLEMS IN CARE		25
DNACPR not in place or invalid or not followed and CPR undertaken		10
Poor quality of documentation		9
Delay in test results / tests being undertaken		4
Inappropriate transfer/repatriation from Community Hospital - delay or other problems		2
Incomplete physiological observations / deterioration not escalated		2
Lack of ICU Bed		2
Medication Error		2
Mis- or Missed Diagnosis		2
Patient's stated wishes not followed		2
Poor coordination of clinical care / lack of senior input / advanced decision making		2
Attitude of staff		1
Availability of appropriate bed (nonICU) compromising care		1
Delay in referral to critical care		1
Patient fall not escalated properly		1
Poor Communication with Family		1

Board of Directors	
Agenda item	Agenda item 13, ENC 8
Title of Report	Annual Board Report and Statement of Compliance
Date of Meeting	3 September 2019
Presented by	Dr Sath Nag, Medical Director
Author	Lynda Norton, Claire Brown, Maurice Conlon
Approved by	Dr Sath Nag, Medical Director
Previous Committee/Group Review	
Purpose	Approval <input checked="" type="checkbox"/> Decision <input type="checkbox"/> Discussion <input type="checkbox"/> Information <input type="checkbox"/>
Alignment to Trust's Strategic Objectives	<input checked="" type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience <input checked="" type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care <input type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future <input checked="" type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice <input checked="" type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability
Alignment to Board Assurance Framework	-
Legal/Regulatory Compliance Requirements (if applicable)	<ul style="list-style-type: none"> • NHS England • General Medical Council
Recommendation(s)	The Board is asked to grant approval for the Chief Executive to countersign the Statement of Compliance on behalf of the designated body.



A Framework of Quality Assurance for Responsible Officers and Revalidation

Annex D – Annual Board Report and Statement of Compliance.

NHS England and NHS Improvement



A Framework of Quality Assurance for Responsible Officers and Revalidation

Annex D – Annual Board Report and Statement of Compliance.

Publishing approval number: **000515**

Version number: 3.0

First published: 4 April 2014

Updated: February 2019

Prepared by: Lynda Norton, Claire Brown, Maurice Conlon

This information can be made available in alternative formats, such as easy read or large print, and may be available in alternative languages, upon request. Please contact Lynda Norton on England.revalidation-pmo@nhs.net.

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Introduction:

The Framework of Quality Assurance (FQA) for Responsible Officers and Revalidation was first published in April 2014 and comprised of the main FQA document and annexes A – G. Included in the seven annexes is the Annual Organisational Audit (annex C), Board Report (annex D) and Statement of Compliance (annex E), which although are listed separately, are linked together through the annual audit process. To ensure the FQA continues to support future progress in organisations and provides the required level of assurance both within designated bodies and to the higher-level responsible officer, a review of the main document and its underpinning annexes has been undertaken with the priority redesign of the three annexes below:

- **Annual Organisational Audit (AOA):**

The AOA has been simplified, with the removal of most non-numerical items. The intention is for the AOA to be the exercise that captures relevant numerical data necessary for regional and national assurance. The numerical data on appraisal rates is included as before, with minor simplification in response to feedback from designated bodies.

- **Board Report template:**

The Board Report template now includes the qualitative questions previously contained in the AOA. There were set out as simple Yes/No responses in the AOA but in the revised Board Report template they are presented to support the designated body in reviewing their progress in these areas over time.

Whereas the previous version of the Board Report template addressed the designated body's compliance with the responsible officer regulations, the revised version now contains items to help designated bodies assess their effectiveness in supporting medical governance in keeping with the General Medical Council (GMC) handbook on medical governance¹. This publication describes a four-point checklist for organisations in respect of good medical governance, signed up to by the national UK systems regulators including the Care Quality Commission (CQC). Some of these points are already addressed by the existing questions in the Board Report template but with the aim of ensuring the checklist is fully covered, additional questions have been included. The intention is to help designated bodies meet the requirements of the system regulator as well as those of the professional regulator. In this way the two regulatory processes become complementary, with the practical benefit of avoiding duplication of recording.

¹ Effective clinical governance for the medical profession: a handbook for organisations employing, contracting or overseeing the practice of doctors GMC (2018) [https://www.gmc-uk.org/-/media/documents/governance-handbook-2018_pdf-76395284.pdf]

The over-riding intention is to create a Board Report template that guides organisations by setting out the key requirements for compliance with regulations and key national guidance, and provides a format to review these requirements, so that the designated body can demonstrate not only basic compliance but continued improvement over time. Completion of the template will therefore:

- a) help the designated body in its pursuit of quality improvement,
- b) provide the necessary assurance to the higher-level responsible officer, and
- c) act as evidence for CQC inspections.

- **Statement of Compliance:**

The Statement Compliance (in Section 8) has been combined with the Board Report for efficiency and simplicity.

Designated Body Annual Board Report

Section 1 – General:

The board of South Tees Hospitals NHS Foundation Trust can confirm that:

1. The Annual Organisational Audit (AOA) for this year has been submitted.

Date of AOA submission: **06/06/2019**

Action from last year: **“The designated body has commissioned or undertaken an independent review of its processes relating to appraisal and revalidation” – Trust answered no to this question in 2017/18**

Comments: **This action plan is still on hold following on the discussions and advice taken from the Revalidation North Responsible Officer Forum**

Action for next year: **Seek clarification on the above from the Revalidation North Responsible Officer Forum**

2. An appropriately trained licensed medical practitioner is nominated or appointed as a responsible officer.

Action from last year: **Nil**

Comments: **Dr Sath Nag - GMC 4695976 (Medical Director – Community Care Centre) appointed Responsible Officer 01/01/2019 with Responsible Officer training completed December 2018**

Action for next year: **Maintain compliance**

3. The designated body provides sufficient funds, capacity and other resources for the responsible officer to carry out the responsibilities of the role.

Yes

Action from last year: **Nil**

Comments: **Responsible Officer leads a fully resourced Revalidation Team consisting of:-**

- **Medical Lead for Appraisal & Revalidation**
- **Lead Appraisers x 3**
- **SAS Doctor / Non-Training Grade Doctor Lead**
- **Revalidation Manager**
- **Revalidation Advisor**

Action for next year: **Maintain skills and resources within the team**

4. An accurate record of all licensed medical practitioners with a prescribed connection to the designated body is always maintained.

Action from last year: **Nil**

Comments: **Allocate Software’s e-Appraisal system is utilised to maintain a database of all Doctors holding a prescribed connection to South Tees**

Hospitals NHS Foundation Trust. The system is continually maintained and cross-checked with GMC Connect by a dedicated Revalidation Manager and Revalidation Advisor.

Action for next year: **Maintain compliance**

5. All policies in place to support medical revalidation are actively monitored and regularly reviewed.

Action from last year: **Nil**

Comments: **Trust policy for Medical Appraisal & Revalidation fully revised and updated in September 2018; Trust policy for Remediation revised and updated November 2018. Both policies are due to be reviewed in three years' time but interim reviews will take place should changes to national policy become apparent.**

Action for next year: **Trust policy for Maintaining High Professional Standards to be revised and updated in the forthcoming appraisal year; keep abreast of national guidance linking to local policy changes where required**

6. A peer review has been undertaken of this organisation's appraisal and revalidation processes.

Action from last year: **As detailed in question 1**

Comments: **As detailed in question 1**

Action for next year: **As detailed in question 1**

7. A process is in place to ensure locum or short-term placement doctors working in the organisation, including those with a prescribed connection to another organisation, are supported in their continuing professional development, appraisal, revalidation, and governance.

Action from last year: **Nil**

Comments: **Yes, all Locum Doctors directly employed by the Trust are expected to participate fully in the appraisal process and agree a PDP within their first three months of joining; Locum Doctors employed for three or more months should undertake a full appraisal. Locum Doctors with a prescribed connection to another organisation e.g. Locum Agency, are afforded the opportunity to have their appraisal with the Trust which can be requested via their Clinical Director. Short term placement Doctors i.e. Locally Employed Non-Training Grade Doctors, receive the same level of support from the Revalidation Team as our Consultants and SAS Doctors and are added to our e-Appraisal software**

Action for next year: **Maintain compliance and engagement**

Section 2 – Effective Appraisal

1. All doctors in this organisation have an annual appraisal that covers a doctor's whole practice, which takes account of all relevant information relating to the doctor's fitness to practice (for their work carried out in the organisation and for work carried out for any other body in the appraisal period), including information about complaints, significant events and outlying clinical outcomes.

Action from last year: **Nil**

Comments: **Yes, the Trust ensures its Doctors undertake annual appraisal in accordance with local policies and procedures and GMC requirements. The Trust utilises the DATIX Risk Management System for the logging of complaints and significant events; reports are extracted from the system by the Revalidation Team which are forwarded to the Doctor for upload to their e-Appraisal. Doctors are also requested to include any details on complaints or significant events which haven't been captured on the DATIX Risk Management system but which they are aware of. Where a Doctor works for any organisation outside of the Trust, they are asked to complete a separate Whole Scope of Practice Form, declaring the additional duties they undertake, the nature and frequency of these duties and whether or not they have been named in any complaints or significant events within the appraisal period; the form must be completed and signed by the external organisation and uploaded to the Doctor's e-Appraisal.**

Action for next year: **Maintain compliance**

2. Where in Question 1 this does not occur, there is full understanding of the reasons why and suitable action is taken.

Action from last year: **Nil**

Comments: **A record of missed or incomplete appraisals is kept with the Revalidation Manager working closely with the Medical Lead for Appraisal & Revalidation to establish the reasons why and enforcing the Trust's escalation policy for non-participation in appraisal where necessary**

Action for next year: **Continue to enforce Trust's escalation policy where appropriate**

3. There is a medical appraisal policy in place that is compliant with national policy and has received the Board's approval (or by an equivalent governance or executive group).

Action from last year: **Nil**

Comments: **Yes, Trust policy on Medical Appraisal & Revalidation revised in line with latest national policy and published with full sign off by the Trust's Board of Directors in September 2018; due for review in three years' time**

Action for next year: **Update where necessary should national policy change**

4. The designated body has the necessary number of trained appraisers to carry out timely annual medical appraisals for all its licensed medical practitioners.

Action from last year: **Nil**

Comments: **Yes, there are currently 138 appraisers in the Trust to undertake appraisals for over 600 Doctors. All 138 appraisers have undergone full revalidation and appraisal training. The Trust are seeking to recruit another 24 trained appraisers to further enhance our numbers with an on-site training day taking place in October 2019**

Action for next year: **Facilitate training for additional 24 appraisers**

5. Medical appraisers participate in ongoing performance review and training/development activities, to include attendance at appraisal network/development events, peer review and calibration of professional judgements (Quality Assurance of Medical Appraisers² or equivalent).

Action from last year: **Nil**

Comments: **Yes, there is on-going training and support from the Revalidation Team. Several workshops led by the Medical Lead for Appraisal & Revalidation and Lead Appraisers have taken place in the last 12 months to allow all appraisers to meet, discuss any issues and share best practice. Our Medical Lead for Appraisal & Revalidation and Lead Appraisers also regularly attend the Northern Regional Medical Appraisal Lead Network meetings**

Action for next year: **Continue to hold meetings for all appraisers throughout the year and attend regional network meetings**

6. The appraisal system in place for the doctors in your organisation is subject to a quality assurance process and the findings are reported to the Board or equivalent governance group.

Action from last year: **Nil**

Comments: **100% of appraisals are quality assured by our Lead Appraiser Team with any appraisals not meeting GMC or Trust requirements re-opened in order for appraisees and/or appraisers to address the identified shortfalls. Reports for Board are produced on a bi-annual basis covering all aspects of appraisal and revalidation.**

Action for next year: **Continue with quality assurance process and twice yearly reports for Board**

Section 3 – Recommendations to the GMC

1. Timely recommendations are made to the GMC about the fitness to practise of all doctors with a prescribed connection to the designated body, in accordance with the GMC requirements and responsible officer protocol.

² <http://www.england.nhs.uk/revalidation/ro/app-syst/>

² Doctors with a prescribed connection to the designated body on the date of reporting.

Action from last year: **Nil**

Comments: **Recommendations are always timely with the Revalidation Manager ensuring Doctor's portfolios are reviewed by the Medical Lead for Appraisal & Revalidation and Lead Appraiser Team in advance of their revalidation date to ensure that all necessary supporting information required to facilitate a positive revalidation recommendation has been captured.**

Action for next year: **Maintain compliance**

2. Revalidation recommendations made to the GMC are confirmed promptly to the doctor and the reasons for the recommendations, particularly if the recommendation is one of deferral or non-engagement, are discussed with the doctor before the recommendation is submitted.

Action from last year: **Nil**

Comments: **All Doctors receive a confirmation email from the Revalidation Manager informing them of their revalidation recommendation as soon as this has been processed on GMC Connect. Where the recommendation is one of deferment, the Revalidation Manager ensures appropriate liaison with the individual concerned, clearly communicates the reason for deferral and establishes a plan with the Doctor to ensure a positive revalidation recommendation can be submitted in line with their revised revalidation date. The Trust hasn't submitted any non-engagement recommendations in the last year but would follow the same process described for deferrals should the situation arise.**

Action for next year: **Maintain compliance**

Section 4 – Medical governance

1. This organisation creates an environment which delivers effective clinical governance for doctors.

Action from last year: **Nil**

Comments: **Revalidation and appraisal forms part of the broader clinical governance framework present in the Trust. Each clinical area has their own systems and processes relating to clinical governance with risk management meetings, directorate meetings, centre board meetings, patient safety groups and quality assurance forums all contributing to the wider clinical governance agenda. Robust systems and processes in place ensure relevant information is communicated to the right individuals and escalated to our partners and regulators where appropriate. The Trust encourages individuals to highlight any areas of concern through our DATIX Risk Management System as well as our Raising Concerns (Freedom to Speak Up) policy.**

Action for next year: **Ensure continued effectiveness**

2. Effective systems are in place for monitoring the conduct and performance of all doctors working in our organisation and all relevant information is provided for doctors to include at their appraisal.

Action from last year: **Nil**

Comments: **The Trust utilises the DATIX Risk Management System for the logging of complaints and significant events; reports are extracted from the system by the Revalidation Team which are forwarded to the Doctor for upload to their e-Appraisal.**

Action for next year: **Trust seeking to invest in an updated DATIX Risk Management System**

3. There is a process established for responding to concerns about any licensed medical practitioner's¹ fitness to practise, which is supported by an approved responding to concerns policy that includes arrangements for investigation and intervention for capability, conduct, health and fitness to practise concerns.

Action from last year: **Nil**

Comments: **The Trust follows the Department of Health Maintaining High Professional Standards in the Modern NHS framework with a local adaptation of the framework adopted as Trust policy. This is due to be revised and updated in the next appraisal year.**

Action for next year: **Revise and update local MHPS policy**

4. The system for responding to concerns about a doctor in our organisation is subject to a quality assurance process and the findings are reported to the Board or equivalent governance group. Analysis includes numbers, type and outcome of concerns, as well as aspects such as consideration of protected characteristics of the doctors³.

Action from last year: **Nil**

Comments: **The above forms part of our local case investigation process following our local MHPS policy. As stated, the Trust intends to revise and update our local MHPS policy in the next appraisal year and has arranged for Case Investigator Training to take place in September 2019, aiming to expand our pool of trained case investigators, broaden our knowledge and boost resilience**

Action for next year: **Revise and update local MHPS policy / facilitate Case Investigator Training**

5. There is a process for transferring information and concerns quickly and effectively between the responsible officer in our organisation and other responsible officers (or persons with appropriate governance responsibility) about a) doctors connected to your organisation and who also work in other

⁴This question sets out the expectation that an organisation gathers high level data on the management of concerns about doctors. It is envisaged information in this important area may be requested in future AOA exercises so that the results can be reported on at a regional and national level.

places, and b) doctors connected elsewhere but who also work in our organisation⁴.

Action from last year: **Nil**

Comments: **The Trust completes the NHS England Medical Practice Information Transfer (MPIT) form where information or concerns need to be shared between respective Responsible Officers**

Action for next year: **Continue timely completion of forms where required**

6. Safeguards are in place to ensure clinical governance arrangements for doctors including processes for responding to concerns about a doctor's practice, are fair and free from bias and discrimination (Ref GMC governance handbook).

Action from last year: **Nil**

Comments: **The Trust and senior management uphold good practices relating to handling of concerns about clinical practice based on the GMC governance handbook. Our Responsible Officer deputises for all matters relating to the GMC with quarterly meetings held locally with our GMC Employer Liaison Advisor.**

Action for next year: **Maintain safeguards**

Section 5 – Employment Checks

1. A system is in place to ensure the appropriate pre-employment background checks are undertaken to confirm all doctors, including locum and short-term doctors, have qualifications and are suitably skilled and knowledgeable to undertake their professional duties.

Action from last year: **Nil**

Comments: **Yes, appropriate pre-employment background checks are carried out by the Trust's recruitment team. Healthcare Locums (HCL) are used as the master vendor for providing Medical Locums across all specialties for all medical roles.**

Action for next year: **Maintain compliance**

Section 6 – Summary of comments, and overall conclusion

Please use the Comments Box to detail the following:

- **General review of last year's actions**

The only action from last year concerns the Trust having an independent review of our processes relating to appraisal and revalidation. This action is still on hold following on the discussions and advice taken from the Revalidation North Responsible Officer Forum

- **Actions still outstanding**

Seek clarification from the Revalidation North Responsible Officer Forum

⁴ The Medical Profession (Responsible Officers) Regulations 2011, regulation 11: <http://www.legislation.gov.uk/ukdsi/2010/9780111500286/contents>

in relation to an independent review of processes relating to appraisal and revalidation being undertaken

- **Current Issues**

Nil

- **New Actions:**

Trust policy for Maintaining High Professional Standards to be revised and updated in the forthcoming appraisal year

Facilitate training for additional 24 appraisers

Facilitate Case Investigator Training for additional 24 case investigators

Seek to invest in an updated DATIX Risk Management System

- **Overall conclusion:**

The Trust continues to ensure all Doctors engage in appraisal with the Revalidation Team aiming to fully optimise the e-Appraisal Allocate Software for the management of appraisals and revalidation recommendations. Based on the embedded systems and processes in place within the Trust, the Revalidation Team continues to work from a position of strength and can provide assurance that:-

- Appraisals are undertaken appropriately and in accordance with national and local policies, procedures and guidelines in order for the RO to make revalidation recommendations to the GMC
- All appraisals and supporting information are undergoing robust quality checks
- Doctors are continually supported by the Revalidation Team with their appraisals and revalidation
- Outstanding appraisals are routinely addressed
- Appraisers have access to dedicated support and training to aid their roles as appraisers

Section 7 – Statement of Compliance:

The Board of South Tees Hospitals NHS Foundation Trust has reviewed the content of this report and can confirm the organisation is compliant with The Medical Profession (Responsible Officers) Regulations 2010 (as amended in 2013).

Signed on behalf of the designated body

(Chief executive or chairman (or executive if no board exists))

Official name of designated body: **South Tees Hospitals NHS Foundation Trust**

Name: **Mrs Siobhan McArdle**

Signed:

Role: **Chief Executive**

Date:

Board of Directors	
Agenda item	Agenda item 14, ENC 9
Title of Report	Freedom to Speak Up - Six monthly report
Date of Meeting	3 September 2019
Presented by	Helen Smithies Freedom to Speak Up Guardian
Author	Helen Smithies Assistant Director of Nursing (Safeguarding) / Freedom to Speak Up Guardian
Approved by	Gill Hunt Director of Nursing and Quality / Freedom to Speak Up Executive
Previous Committee/Group Review	Nil
Purpose	Approval <input type="checkbox"/> Decision <input type="checkbox"/> Discussion <input type="checkbox"/> Information <input checked="" type="checkbox"/>
Alignment to Trust's Strategic Objectives	<input checked="" type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience <input type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care <input type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future <input checked="" type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice <input type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability
Alignment to Board Assurance Framework	BAF risk 5.1 - Recruit high calibre people and offer a flexible, patient centred and family friendly work environment
Legal/Regulatory Compliance Requirements (if applicable)	<ul style="list-style-type: none"> • Care Quality Commission • NHS Improvement • NHS England
Recommendation(s)	The Board are asked to receive the report for information and to ensure that they are cognisant of their individual and collective responsibilities to support the work of the Freedom to Speak up Guardians and Freedom to Speak up Champions.

Executive Summary

It is now a year since the Trust identified two new Freedom to Speak up (FTSU) Guardians, and eight months since the electronic reporting system was introduced. Guidance from The National Guardians Office (NGO) states regular reports should be presented by the Freedom to Speak up Guardians to the Board.

Recommendations

The Board are asked to receive the report for information and to ensure that they are cognisant of their individual and collective responsibilities to support the work of the Freedom to Speak up Guardians and Freedom to Speak up Champions.

1. Introduction

This report details action taken under the Freedom to Speak Up agenda within the Trust over the last six months as well as providing an overview of relevant national activity. Freedom to Speak Up processes form part of the NHS Standard contract and should augment and support usual management practices aimed at promoting an open and transparent culture.

2. Freedom to Speak up at STHFT

2.1 Personnel

Role	Name
Non-Executive Director	Maureen Rutter
Executive Director	Gill Hunt
Freedom to Speak Up Guardians	Helen Smithies
	Laura Mills

In addition the Trust now has 37 Freedom to Speak up Champions across the organisation, covering all sites from a variety of professions and roles.

2.2 Guardian competencies.

Both Guardians have attended the required National training for Guardians and have engaged with the Regional Guardians' network. In addition, Helen Smithies attended the Annual National Freedom to Speak up conference in London in March. This was a particularly beneficial session including the implications of 'Civility Saves lives' and 'Speaking truth to Power' in the F2SU agenda.

2.3 Guardian capacity.

Many Trusts have a standalone guardian role, either full or part time. In 2018 STHFT chose an alternative route, asking two existing employees to take on the role of Guardian in addition to their substantive posts. This had the advantage at the time of ensuring both

individuals had many years' experience of the organisation and its personnel. However as awareness of the F2SU agenda grows and staff feel empowered to raise concerns, it is clear the role is beginning to outstrip the capacity of those in the role. Additionally the NGO case reviews have been noted to commend the appointment of a Freedom to Speak up Guardian through an open recruitment process and the appointment of a stand-alone Guardian as good practice.

2.4 Awareness raising.

Training has been provided for F2SU champions. A number of methods have been utilised to raise awareness of the F2SU agenda across the organisation with items in Trust briefing and Talking Point, posters identifying champions, and lanyards and badges for champions in non-clinical roles. The Guardians are due to present to the next Nursing / Health Care Professions Leadership session in September and will present to the Clinical Directors and Service Manager groups in Q3.

2.5 Speaking up.

On 6 January 2019 an in-house reporting tool was launched which is accessible to all staff via the Trust intranet. This allows staff to report concerns, anonymously, confidentially or openly. A notification is generated automatically and sent to the FTSU emails.

Between the launch and the last report three notifications were received two anonymously, and one confidentially. A further notification was received via the National Guardians' office from a former employee. Since then a further 9 alerts have been received. At the present time seven have been concluded and six remain open. Alerts raised have encompassed concerns about fraud, patient safety and bullying and harassment. Five were raised anonymously, six confidentially and two openly. The majority of concerns have been raised by Trust staff but a further two have come from individuals who no longer work for the organisation, one a former health care student and one a former employee of Carillion.

2.6 Investigations.

Identifying appropriately knowledgeable, experienced and senior staff to undertake investigations has been challenging with capacity to undertake an investigation often being sighted as a barrier. A number of investigation methods have been employed to suit the concerns raised by staff, some have been undertaken in a relatively short space of time whereas others have taken a number of weeks, most notably where a number of staff have been offered interviews. Where there are HR implications in the concern raised an HRBP has assisted or led the investigation.

2.7 Reporting.

A standardised format has been agreed for reporting purposes. This includes a section on lessons learnt.

2.8 Lessons learnt.

It is difficult to draw any firm thematic conclusions from the small number of concluded investigations to date. However what is clear is that timely, courteous communication is key to staff feeling valued and listened to.

2.9 Reporting to the National Guardians office.

Quarterly reporting of freedom to speak up activity to the National Guardians office has continued. It should be noted that where a number of staff speak up about the same issue (such as a team) the NGO requires this to be reported not as one case but as the number of

staff speaking up. *'Each individual speaking up through the guardian route should be counted as a separate case even if they are speaking up about the same issue, together or separately'* NGO 2018.

3. Action plans and future developments

3.1 Action Plan.

The action plan developed at the end of 2018 has been completed with the exception of items which will be on going such as awareness raising. The action plan will be further developed in the coming three months to incorporate the findings from National case reviews (section 4.1).

3.2 Training.

Currently the Trust has a PowerPoint presentation available for staff on the intranet on Freedom to Speak up, although this is not mandatory and there is no method for monitoring the number of staff who access this. In addition, a small number of slides are included in Level 1 (eLearning) and Level 2 (delivered) safeguarding adults training. This training provision will be evaluated against National requirements published in August this year. In particular consideration will need to be given as to how training can be provided for line and middle managers.

3.3 Future of the role of Freedom to Speak up Guardian.

In the coming six months the role of the Freedom to Speak up Guardian, both in terms of capacity and independence, will be reviewed and a proposal for the role based on the requirements of the Trust and on NGO guidance on good practice will be developed.

4. National developments

4.1 Review of the handling of speaking up cases.

Part of the role of the National Guardians Office (NGO) is to review cases where the response of a trust to instances of its workers speaking up may not have met with good practice. Good practice in those trusts is identified in the reports and recommendations made. The trusts involved are required to report to NHSI on progress towards implementation of the recommendations. In the last year three such case reviews have been published in relation to

1. Derbyshire Community Health Services NHS Foundation Trust
2. Nottinghamshire Healthcare NHS Foundation Trust,
3. Royal Cornwall Hospitals NHS Trust
4. Brighton and Sussex University Hospitals NHS Trust

The NGO is clear that it expects all trusts to look at case reviews and identify any lessons to be adopted locally. The findings of these reviews will be considered and form the basis of the updated action plan the coming three months.

4.2 Guidance for Boards.

In July 2019 the NGO published Guidance for Boards aimed supporting boards to create a culture where 'workers feel safe and able to speak up about anything that gets in the way of delivering safe, high quality care or affects their experience in the workplace'. It acknowledges that it is the behaviour of executives and non-executives which is reinforced by managers that has the biggest impact on organisational culture. The guide sets out the NGO's expectations, details individual responsibilities and provides supplementary

resources. The Executive lead for FTSU is expected to use the guide to help boards reflect on the current position and improvement needed. The guide specifically states the FTSU Guardian should not lead this work. The outcomes from this work will be fed into the updated action plan.

4.3 Training.

In August the NGO published national guidelines on Freedom to Speak up training. They identify three broad groups of workers / training.

- Core training for all workers including volunteers learners and those in training
- Line and middle management training
- Senior leader training

Separate guidance is available on the training requirements of F2SU guardians.

5. Conclusion and Recommendations

The Board are asked to receive the report for information and to ensure that they are cognisant of their individual and collective responsibilities to support the work of the Freedom to Speak up Guardians and Freedom to Speak up Champions.

Helen Smithies

Assistant Director of Nursing (Safeguarding) / Freedom to Speak Up Guardian

August 2019

Freedom to Speak Up: Concluded cases

Number	O/C/A	Issue raised	Findings	Lesson	Feedback where available
18/04/01	A	Staffing at night	Staffing at night met required standards Movement of staff appropriate Manager behaviour appropriate Review of all file notes	Effective communication of the rationale for decisions made is needed	
18/04/02 (same ward as 18/04/01)	C	Movement of staff Behaviour of ward manager Use of file notes affecting morale			'thank you for your hard workmorale on the ward has improved our current ward manager is working very well with all staff and is very approachable and this has raised morale'
18/04/03	C	Behaviour of senior staff during and following a staffing restructure Poor morale within a team	No evidence of poor morale found. Overall behaviour was within expected parameters with the exception of a response to a letter	A timely and courteous response to letters should be afforded to all. Where a response is to be delayed communication should be acknowledged	
18/04/04	A	Physical working conditions around computer work space	Part of a wider issue on the ward environment. Subject to on-going work. Measures to mitigate the issues introduced	Importance of short term measures and communication	
18/04/05	O	Staffing issues Concerns about accommodation Ineffective communication from line manager and senior manager	Staffing issues temporary resulting from resignation of a nurse. What was thought to be best option across the service had been identified but not effectively communicated to the team Accommodation was agreed to not be ideal but was adequate and the best available at the time.	Effective, timely communication Visibility of team leader when service delivered across a number of different sites	We had had great support from (guardian and clinical matrons) & due to our very positive feedback meeting & after discussing with the team we feel we do not need to proceed any further. Thank you for all your advice & support along the way & this has been a very good process which has

					had a very positive outcome.
19/01/05	A	Falsification of time sheet	Not substantiated		
19/01/07	C	Patient safety concerns as a result of team structure/ capacity Person raising the concern no longer worked in the team in question.	OD fully aware of the concerns and comprehensive plans were in place to address the issues. However as the person raising the concern was no longer in the team there was no reason for her to be aware of this	None.	I would like to thank you for the support you have given me in raising my concerns, and the comprehensive plan that has been put in place. I do not have any outstanding patient safety concerns,

Board of Directors	
Agenda item	Agenda item 15, ENC 10
Title of Report	South Tees Hospitals NHS Foundation Trust – Group structure
Date of Meeting	3 September 2019
Presented by	Steven Mason - Director of Finance
Author	Gary Macdonald – Deputy Director of Finance
Approved by	Steven Mason - Director of Finance
Previous Committee/Group Review	
Purpose	<p style="text-align: center;">Approval <input type="checkbox"/> Decision <input type="checkbox"/></p> <p style="text-align: center;">Discussion <input type="checkbox"/> Information <input checked="" type="checkbox"/></p>
Alignment to Trust's Strategic Objectives	<p><input type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience</p> <p><input checked="" type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care</p> <p><input checked="" type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future</p> <p><input type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice</p> <p><input checked="" type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability</p>
Alignment to Board Assurance Framework	
Legal/Regulatory Compliance Requirements (if applicable)	<p>Section 46 of the National Health Service Act 2006</p> <p>South Tees NHS Foundation Trust Constitution – Section 45 – Mergers, etc and significant transactions</p> <p>South Tees NHS Foundation Trust - Provider Licence – Section 6 Condition FT4 – NHS Foundation Trust governance arrangements</p> <p>NHS Improvement - Transactions guidance – for trusts undertaking transactions, including mergers and acquisitions - November 2017</p> <p>NHS Improvement - Addendum to the transactions guidance – for trusts forming or changing a subsidiary - November 2018</p>
Recommendation(s)	The Board are asked to receive the report for information.

1. Executive Summary

Background

- 1.1 The purpose of this report is to provide an overview of the Trust Group Structure, bringing together the recent reports and decisions on the different entities within the group.
- 1.2 The Trust has created different entities in connection with its functions to provide more effective value for money for certain activities. The powers under which the Trust can progress this are set out in section 46 of the National Health Service Act 2006: -

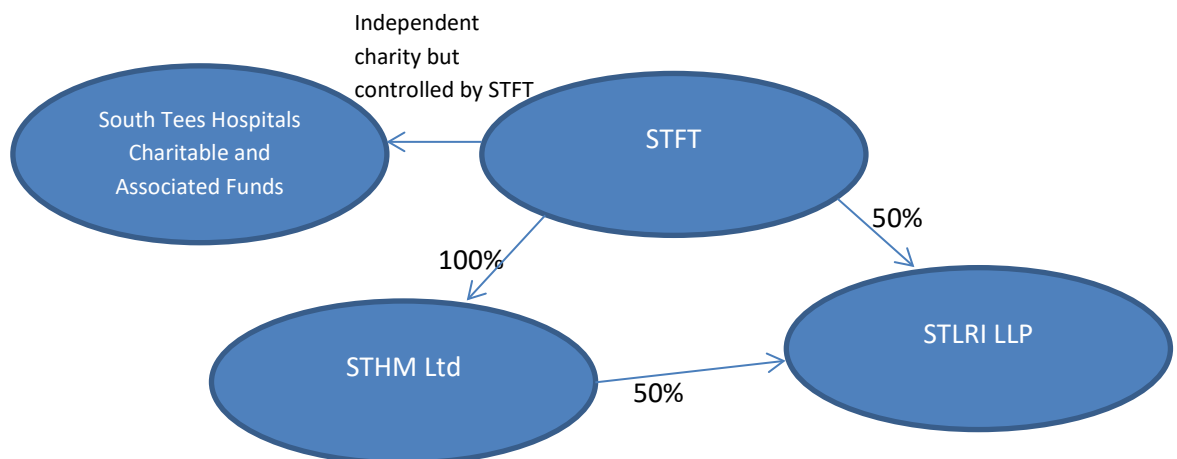
...46 Financial powers

- (4) An NHS foundation trust may invest money (other than money held by it as trustee) for the purposes of or in connection with its functions.
- (5) The investment may include investment by—
- (a) forming, or participating in forming, bodies corporate,
 - (b) otherwise acquiring membership of bodies corporate.....

- 1.3 These powers are reflected in the Trust constitution and provider licence with further guidance being issued by the regulator on such transactions.

Group Structure and governance

- 1.4 The Trust Group structure is set out in the diagram below: -



- 1.5 The Trust consolidates the activities of STHM Ltd and STLRI LLP within its financial statements. South Tees Hospitals Charitable and Associated Funds is an independent charity lodged with the Charities commission, however the Trust exercise control over it via the Board of Trustees.
- 1.6 The charity has well established governance meetings that review operational and financial performance against its objectives. STHM Ltd and STLRI LLP are proposed to have Board meetings periodically throughout the financial year with update reports back to Board.
- 1.7 The table on the following page provides some of the key facts for each of the entities within the trust group structure: -

	STHM Ltd	STLRI LLP	ST Charity and Associated Funds
Date Incorporated	6 th May 2016	9 th May 2016	11 June 1996
% Owned by Trust	100% Trust	50% Trust 50% STHM Ltd	Independent charity
Trust representatives on Board (proposed)	<ul style="list-style-type: none"> • Chief Executive Officer • Head of Pharmacy • Mike Ducker • Debbie Reape 	<u>Chair</u> <ul style="list-style-type: none"> • Non-Executive Director (other than MD/DR) <u>Trust partner reps</u> <ul style="list-style-type: none"> • Director of Operations Education, Research & Innovation • Director of Research and Development <u>STHM Ltd partner reps</u> <ul style="list-style-type: none"> • Mike Ducker • Debbie Reape 	<u>Trustees</u> <ul style="list-style-type: none"> • Mike Ducker • Alan Downey • Maureen Rutter • Amanda Hullick • David Heslop • Richard Carter-Ferris • Jake Tompkins • Adrian Clements • Gill Hunt • Siobhan McArdle • David Chadwick • Sath Nag • Steven Mason
Articles of Association – principal objectives (SIC/Charity Commission)	Standard Industry Classification (SIC) 86900 Other human health activities	Standard Industry Classification (SIC) 72110 Research and experimental development on biotechnology	<p>What</p> <ul style="list-style-type: none"> • General Charitable Purposes • Education / training • The Advancement Of Health Or Saving Of Lives • Other Charitable Purposes <p>Who</p> <ul style="list-style-type: none"> • Children / young People • Elderly / old People • People With Disabilities • The General Public / mankind <p>How</p> <ul style="list-style-type: none"> • Makes Grants To Organisations • Acts As An Umbrella Or Resource Body
Operational scope of activities currently agreed	<ul style="list-style-type: none"> • Pharmacy outpatients services 	<ul style="list-style-type: none"> • Research and Development Commercial Trial operations/management • Research and Development capacity and capability building • Education Conferences and Events • Other R&D / Education traded services where applicable 	South Tees Hospitals Charity raises funds to enhance the services that South Tees Hospitals NHS Foundation Trust provides. The Charity supports the provision of general healthcare and staff welfare, improvement of specialist, clinical and clinical support services and the advancement of clinical knowledge. The role of the charity is not to fund patient care but to improve it.
Proposed minimum reporting	<ul style="list-style-type: none"> • Annual Planning round • Mid-year update • Closedown of Accounts – as part of Trust financial statements activity 		

Regulatory requirements

- 1.8 Whilst STHM Ltd and STLRI LLP will not hold an NHS Provider Licence and will not be directly regulated by NHSI, it is highly likely that NHSI will take into account the performance of any subsidiaries as a result of a possible material impact of any entity upon the parent Trust. Condition FT4, for example, of the NHS Provider Licence which contains a number of provisions relating to the corporate governance of the Trust may be used as the basis for this. It would not be unreasonable, therefore, for there to be an expectation that any subsidiary should also be similarly well governed; hence the need for governance arrangements which demonstrate effective governance and accountability of the LLP by the Members (and effectively, the Trust Board).
- 1.9 Accordingly, the Trust should share with NHSI the purpose, nature and extent of the arrangements and plans it is putting in place in relation to the LLP.
- 1.10 Part of Licence Condition FT4 is a requirement to identify and manage material risks to compliance with the condition. Whilst it is difficult to assess at this stage its materiality (in the absence of a detailed business plan) in accordance with the condition and provision within the FT Code of Governance, it is appropriate to inform the Council of Governors about the LLP. If the LLP is material to the Trust in some way the Governors may consider it necessary to hold the Non-Executive Directors to account for the performance of the Trust Board in monitoring the LLP.

2. Recommendation

The Board are asked to receive the report for information..

Board of Directors	
Agenda item	Agenda item 16, ENC 11
Title of Report	Implementation - SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND INNOVATION LLP
Date of Meeting	3 September 2019
Presented by	Steven Mason - Director of Finance
Author	Gary Macdonald – Deputy Director of Finance
Approved by	Steven Mason - Director of Finance Andrew Owens, Medical Director – Corporate & Clinical Services
Previous Committee/Group Review	Senior Leadership Team 8 th August 2019
Purpose	<p style="text-align: center;">Approval <input type="checkbox"/> Decision <input checked="" type="checkbox"/></p> <p style="text-align: center;">Discussion <input checked="" type="checkbox"/> Information <input type="checkbox"/></p>
Alignment to Trust's Strategic Objectives	<p><input type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience</p> <p><input checked="" type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care</p> <p><input checked="" type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future</p> <p><input type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice</p> <p><input checked="" type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability</p>
Alignment to Board Assurance Framework	
Legal/Regulatory Compliance Requirements (if applicable)	<p>Section 46 of the National Health Service Act 2006</p> <p>South Tees NHS Foundation Trust Constitution – Section 45 – Mergers, etc and significant transactions</p> <p>South Tees NHS Foundation Trust - Provider Licence – Section 6 Condition FT4 – NHS Foundation Trust governance arrangements</p> <p>NHS Improvement - Transactions guidance – for trusts undertaking transactions, including mergers and acquisitions - November 2017</p> <p>NHS Improvement - Addendum to the transactions guidance – for trusts forming or changing a subsidiary - November 2018</p>
Recommendation(s)	The Board of Directors are asked to note and endorse the content of the report.

1. Executive Summary

1.1 The purpose of this report is to provide the necessary information to inform the key decisions required to give effect to “go live” operations for **SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND INNOVATION LIMITED LIABILITY PARTNERSHIP (“the LLP”)** for 2019/20 financial year.

1.2 The LLP was incorporated on 9th May 2016 following initial work and advice supported by PwC. The partners within this partnership are: -

SOUTH TEES HOSPITALS NHS FOUNDATION TRUST

- and -

SOUTH TEES HEALTHCARE MANAGEMENT LIMITED

1.3 The timeline of events following incorporation is set out below: -

- LLP Incorporated – May 2016
- Review of proposed plans and governance arrangements 2016
- Paper to Board on key issues for consideration – February 2017
- Further detailed work requested post February 2017
- Change in Company Secretary’s
- LLP Legal and Governance report to the Finance & Investment Committee (FIC) September 2017
- LLP Funding arrangements report to FIC September 2017
- LLP Financial governance instruments update FIC October 2017
- LLP members agreement and draft support services agreement FIC October 2017
- 2017/18 and 2018/19 financial recovery plan prioritised and change in key staff roles
- 2019 – Request for updated plans and implementation approach for LLP

1.4 Scope of Activities and rebranding

The scope of the LLP activities has been the subject of discussions at both Finance and Investment Committee and Board over the last couple of years. The use of a separate vehicle for Research and Development activities must have a clear rationale and business plan for ongoing activities and not simply be a vehicle for transfer monies or for purely tax purposes. Following careful consideration of the activities the following key activity areas are proposed for initial operations of the LLP: -

1.5 **Decision endorsed by Senior Leadership Team (SLT) – Proposed Scope**

- **Research and Development Commercial Trial operations/management**
- **Research and Development capacity and capability building**
- **Education Conferences and Events**
- **Other Research & Development (R&D) / Education traded services where applicable**

1.6 The Institute of Learning, Research and Innovation has recently undertaken a review and rebranding exercise within the Trust. It is not necessary for the LLP to have a name change at Companies House to reflect any rebranding exercise therefore this is not proposed. The branding associated with operational activity would follow the

STRIVE (South Tees Research, InnoVation and Education) branding and logo/materials going forward alongside the Company name as required.

1.7 **Decision endorsed by SLT – Proposed to maintain current name at Companies house for the LLP whilst adopting appropriate branding as required to reflect operational activity**

1.8 Business Plan

The Members Agreement (**Appendix 2**) provides a requirement for the LLP to produce an annual Business Plan (**Appendix 1**) setting out: -

“..With the prior written consent of the Trust, the LLP may adopt a Business Plan. The purpose of such Business Plan is to set the overall parameters for the Business. Any Business Plan shall, subject to clause 5.2, contain such information as the Trust determines from time to time.to this report...”

1.9 The plan contained within this report is prepared in accordance with the Members Agreement in relation to South Tees Institute of Learning, Research and Innovation LLP section 5.2.2: -

“..5.2 The Initial Business Plan shall be prepared by the Trust. In relation to all Business Plans following the Initial Business Plan:

- i. in [January] before the end of each Financial Year, the Board shall prepare, agree and circulate for approval by the end of February to the Members a draft Business Plan for the next Financial Year;
- ii. once approved by the Trust, the draft Business Plan shall become the Business Plan of the LLP and, where applicable, in place of the then current Business Plan on and from the start of the first Financial Year to which it relates; and
- iii. the Business Plan shall be reviewed by the Board not less than every Quarter thereafter...”

1.9 **Decision endorsed by SLT – The Committee endorse the Business Plan, including funding requirement, for progression to Board**

1.10 Operational Management documentation

The partners approved the processes and documentation associated with the establishment of the LLP via South Tees Hospitals NHS Foundation Trust Finance and Investment Committee endorsement and subsequent approval at South Tees Hospitals NHS Foundation Trust Board. The approval was subject to South Tees Hospitals NHS Foundation Trust Board needing to agree and approve any appointments to the LLP and its independent chair. The specific processes and documentation approved were: -

- Members Agreement (**Appendix 2**)
- Support Services Agreement (**Appendix 3**)
- R&D Financial Governance principles (**Appendix 4**)
- CG01: Standing Orders for the LLP Board of Directors (**Appendix 5**)
- CG02: Standing Financial Instructions (**Appendix 6**)
- CG03: Decisions Reserved for the Board of Directors and Scheme of Delegation (**Appendix 7**)

1.11 The specific individuals who are members of the Management Board are proposed to be (as reported and agreed at South Tees Institute for Learning, Research and Innovation LLP – Legal and governance issues paper to Finance and Investment Committee on 21 September 2017 supported further by the FIC October meeting conclusion that.. "The Board will need to agree any appointments to the LLP and the selection of an independent chair."): -

- Chair of LLP Board – Non Executive Director (other than Mike Ducker and Debbie Reape as they are set out below as Trust representatives)
- **Trust** - two directors - *Director of Operations Education, Research & Innovation and Director of Research and Development*
- **STHM Ltd** - Mike Ducker and Debbie Reape
- LLP Chief Executive(*Director of Operations Education, Research & Innovation*

The proposals above are consistent with advice received from the Trusts legal advisers in this matter, DAC Beachcroft. The proposed membership ensures that the Chair/CEO of the Trust are able to hold to account the LLP for performance and delivery against strategic objectives. Although the Chair is not proposed to be a completely independent Chair the independence aspects are preserved via the proposal to have a separate Non-Executive Director as Chair of the Board.

1.12 **Decision endorsed by SLT – The FIC endorse the proposal for the composition of the LLP “Board” to have responsibility for day to day management of the LLP**

1.13 **Decision endorsed by SLT – The FIC endorse the governance instruments attached at Appendices 3-7 for progression to Board. It is recommended that the Board delegate authority to the Trust Director of Finance and Chair of FIC to agree any operational changes to the document set with retrospective reporting to the Trust Board.**

1.14 Support Service requirements

The draft support services agreement at Appendix 3 is prepared on the basis that there will be a requirement for support service recharges from the Trust for the operation of the LLP. The scope of activities listed above will require support services from the Trust to enable the LLP to operate effectively. It is proposed the relevant scope for these services and associated charges will be agreed as part of the Annual Business planning round each year and would be signed off by the Partners and the Trust. Audit and Insurance fees and central costs directly associated with the activity of the LLP will be charged to the LLP in the normal manner.

1.15 **Decision endorsed by SLT – The FIC endorse the requirement for support services and appropriate charges to be determined annually with the Partners and the Trust.**

1.16 Implementation items

The LLP is established at Companies House, and following agreement to the decisions contained within this report it will be in a position to operate subject to the following implementation actions: -

1. Establishment of separate bank account
2. Establishment of VAT registration and, subject to appropriate VAT advice, confirmation of Vat treatment of transactions with HMRC
3. Proposed change of Accounting Period at Companies house from 31 May year ending to 31 March year ending to align with the Trust financial year for consolidation purposes

4. Set-up of separate entity on Trust financial ledger and associated authorisation processes
5. Agree accounting treatment with External Auditors
6. Training and briefing of operational teams re. financial processes, codes, procedures etc

Further activity will be required for R&D activity once the Senior Research Management Accountant post is in place to operationalise the activities of the DTVRA. Although this is envisaged to be around consolidation of reporting information primarily the key information would be as follows: -

1. Standard Operating Procedure (SOP) for Durham Tees Valley Research Alliance (DTVRA)
2. Service Level Agreement (SLA) with members of DTVRA

1.17 **Decision endorsed by SLT – The FIC endorses the implementation items and for the Director of Finance to secure the necessary advice to complete the actions listed**

Risk Assessment

1.18 The operationalising of the LLP as the following identifiable risks: -

- Risk that the development of proposals for operationalising the LLP do not gain approval/agreement from Department of Health/NHS Improvement/NHS England/HMRC/External Auditors
 - *Mitigation to provide full transparent documentation set to these stakeholders for review and feedback/decisions*
- Risk that the LLP governance processes and procedures are not adequate
 - *Mitigation that formal advice is provided by DAC Beachcroft regarding all governance instruments*
- Risk that the LLP cannot access funding streams previously accessible as a Foundation Trust
 - *Mitigation that the Trust is a partner in the LLP and 100% owns the other partner. The Trust will also ensure any application for funds from funders considers any pre-requisite requirements and makes the application from the entity eligible for funding*

Next Steps

1.19 Following agreement to endorse the decisions contained within this report the following steps will be necessary: -

- Report to Finance and Investment Committee on 29 August 2019
- Report to Board on 3 September 2019
- Provide full documentation to Department of Health NHS Improvement/England in line with “NHS Improvement - Addendum to the transactions guidance – for Trust’s forming or changing a subsidiary - November 2018” and seek approval to proceed
- Provide full documentation to the Trust External Auditors for review
- Provide the necessary documentation to Trust VAT advisers to work with HMRC on VAT treatment

2. Recommendation

The Board of Directors is asked to consider and endorse the decisions contained within this report in bold font and the next steps.

File Copy



**CERTIFICATE OF INCORPORATION
OF A
LIMITED LIABILITY PARTNERSHIP**

Partnership No. OC411730

The Registrar of Companies for England and Wales, hereby certifies that

SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND INNOVATION
LLP

is this day incorporated under the Limited Liability Partnerships Act 2000 as a limited liability partnership, that the partnership is limited, and the situation of its registered office is in England/Wales

Given at Companies House, Cardiff, on 9th May 2016



NOC4117303

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Companies House

LLIN01(ef)

Application to register an LLP

Received for filing in Electronic Format on the: 09/05/2016



X56N22A3

*LLP Name
in full:*

**SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND
INNOVATION LLP**

*Situation of Registered
Office:*

England and Wales

*Proposed Register
Office Address:*

**THE MURRAY BUILDING THE JAMES COOK UNIVERSITY
HOSPITAL
MARTON ROAD
MIDDLESBROUGH
UNITED KINGDOM
TS4 3BW**

At least two members named must be designated

Proposed Officers

LLP Member *1*

Type: **Corporate**

Name: **SOUTH TEES HOSPITALS NHS FOUNDATION TRUST**

*Registered or
principal address:* **THE MURRAY BUILDING THE JAMES COOK UNIVERSITY
HOSPITAL
MARTON ROAD
MIDDLESBROUGH
UNITED KINGDOM
TS4 3BW**

European Economic Area (EEA) LLP

Register Location: **UNITED KINGDOM**

Registration Number: **130107**

Appointment is for a Designated Member

The members confirm that the corporate body named has consented to act as a designated member

LLP Member 2

Type: **Corporate**

Name: **SOUTH TEES HEALTHCARE MANAGEMENT LIMITED**

*Registered or
principal address:* **THE MURRAY BUILDING THE JAMES COOK UNIVERSITY
HOSPITAL
MARTON ROAD
MIDDLESBROUGH
UNITED KINGDOM
TS4 3BW**

European Economic Area (EEA) LLP

Register Location: **UNITED KINGDOM**

Registration Number: **10166808**

Appointment is for a Designated Member

The members confirm that the corporate body named has consented to act as a designated member

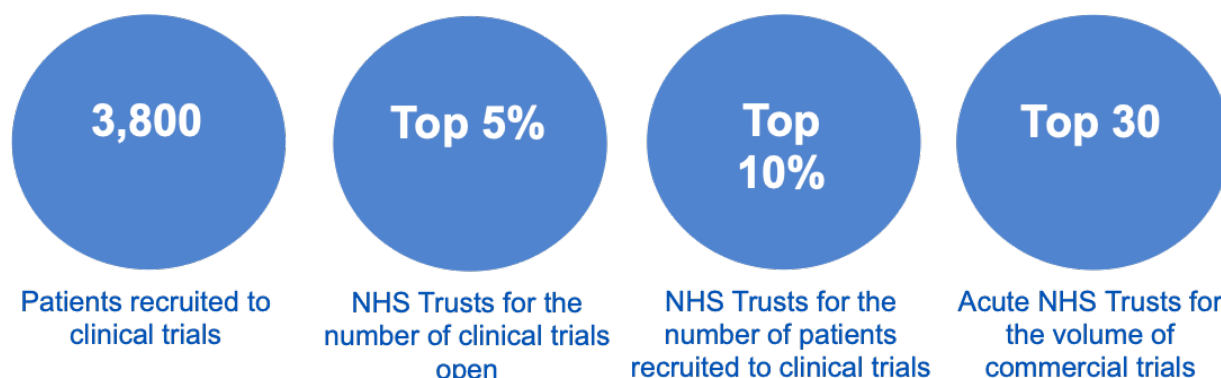
Authorisation

I certify that two or more persons named in this form are associated for carrying on lawful business with a view to profit.

Authoriser Designation: **member**

Authenticated: **YES**

2019-20 Initial Business Plan South Tees Learning, Research and Innovation LLP



There is a government mandate for NHS Trusts to engage in research through the National Institutes of Health and Research (NIHR). South Tees Hospitals NHS Foundation Trust has consistently articulated a commitment to promoting research and innovation.

The aim of this document is to articulate a strategy whereby the Trust can further develop its engagement in research and innovation. This strategy replaces the 2013-2018 strategy and is a 1-2 year interim strategy as it is anticipated to be replaced following the creation of the Durham Tees Valley Research Alliance (DTVRA) strategy.

The DTVRA creates a single Research & Development service covering County Durham & Darlington NHS FT, North Tees & Hartlepool NHS FT and South Tees Hospitals NHS FT. The proposed alliance is currently coming to the end of a 6 month scoping project and plans to formalise the alliance are at respective Trust boards for agreement. It is anticipated that the alliance will be formalised by 1st April 2019 and established and developed in 2019-20.

There are 4 strands to the South Tees interim strategy.

1. Increase the opportunities for patients and staff to participate in health research and innovation at all sites and in all clinical areas.
2. Provision of high quality research and innovation services
3. Support and development of research and innovation staff
4. Develop new and strengthen existing regional and national relationships with research and innovation partners.

1. Increase the opportunities for patients and staff to participate in health research and innovation at all sites and in all clinical areas

All clinical areas-research engagement will be promoted across the trust. Research and Innovation engagement and performance will be reported quarterly by specialty and disseminated by research and clinical teams.

All sites-Research opportunities will be developed at community sites and within the Friarage expanding on the work based at The James Cook University Hospital.

All patients- Increase the number and breadth of research opportunities for patients.

In addition the Trust will maintain its position as a UK research lead in Orthopaedics, Cardiothoracics and Pain/perioperative care Research and support research with out military colleagues.

2. Provision of high quality research and innovation services

Communication-The R&I Directorate will be an easily accessed source of the information needed by the leadership within the Trust and investigators to understand, develop, fund and manage research activity and projects.

Research Governance-Investigators are supported with timely and appropriate trial support, with regular performance management from successful set up to the support of failing trials. The R&I department will monitor and meet performance targets set by the NIHR and the LCRN.

Innovation pathway- staff will be signposted through the innovation pathway and supported with advice over intellectual property and commercial engagement.

Patient and Public Involvement-Our patient and carer experience of participating in research will be evaluated and supported by the Patient Research Ambassadors group. This information will be used to help inform strategies to improve research engagement and clinical trial design where appropriate.

3. Support and development of research and innovation staff

This includes the following strands:

- (a) Development of Principle Investigator role with NMAHP and medical PI's
- (b) Mentoring and training of new CI's
- (c) Increase in the number of existing Trust staff engaged in research and innovation
- (d) Establishment of substantive University appointments, both Medical and NMAHP
- (e) Externally funded Fellowships
- (f) Provide leadership and professional development opportunities to support research staff in delivering clinical research.

4. Develop new and strengthen existing regional and national relationships with research and innovation partners.

These partners include the LCRN, AHSN, Teeside, York, Durham and Newcastle Universities, the Tees Health Improvement Partnership and commercial SMEs.

The STLRI LLP will utilise R&D surplus funds to further the achievement of the stated strategic aims of the interim strategy set out above. These funds will be made available from partners based on outline spending plans, refreshed annually, produced and agreed by the LLP Board members.

The funds will be administered in accordance with the approved Members agreement and associated Standing Financial Instructions.

The strategy will develop: -

- Research and Development activity
- Innovation activity

These areas are in line with the stated business activities of the LLP which are set out in the Members agreement: -

- The business of the LLP from time to time (the "Business") shall be to:
 - identify, develop and manage the Intellectual Property of the Trust;
 - develop partnerships with regional industry and academia;
 - maximise use of the LRI laboratory facilities and create opportunities for local investigators and small external research and development companies;
 - provide wealth creation and generate a net annual profit for the Trust; and
 - any other business, service or action approved by the Trust in accordance with clause 10.1*.

There are two types of R&D activity as follows; bullet one is covered by this Business Plan: -

- “Commercial R&D” - where R&D is primarily conducted for commercial purposes and funded by an external company, for example a drug trial prior to licensing.
- “Non – Commercial R&D” – where R&D is funded by a charitable organisations, a Research Council, the Department or Health or other government agencies for example

Any funding which is received through R&D activity is covered by the South Tees Hospitals NHS Foundation Trust Standing Financial Instructions and Standing Orders, as is the case for all other funding sources within the Trust. This Business Plan deals with the use of residual balances as set out below: –

- Once a study is completed the account is closed down.
- For commercial studies any residual balance on an account is transferred to what we refer to as a holding account within the Trust.
- In the past these were quite often in individual consultants names but they are now to be grouped (where applicable) into relevant specialties in order to use more strategically. The guidelines for use of the accounts is that all expenditure above £1k from these holding accounts needs the Clinical Director of R&D to authorise.

Note: this would include expenditure that is to transfer funds to the LLP, however any funds proposing such transfer would also need to be agreed by the partners.

An outline of the proposed approach to developing indicative spending plans for the LLP is set out below (based on balances up to and including 2017/18 financial year): -

- £500k initial allocation included within the 2019/20 budget earmarked for use of R&D balances accrued up to and including 2017/18 financial year
- R&D Director will fully review the 2017/18 accrued balances for each Specialty to determine the extent to which recharges for R&D staff time may not have been processed
- R&D Director working with the Trust Deputy Director of Finance will confirm final 2017/18 balances position to the relevant lead Consultants, Clinical Directors and Service Managers
- R&D Director working with Deputy Director of Finance will coordinate the submission of pending plans to cover the medium term period (next 5 years) for the proposed utilisation of these balances. This will form the draw down request against the £500k initial headline allocation provided for currently in 2019/20 draft budgets
- The CEO of STLRI LLP will provide a report to the LLP Management Board with proposed medium term spending plans agreed with Specialties designed to deliver this business plan. This will be reviewed annually in line with future planning processes.
- All future R&D trial management is being captured at individual trial level which will enable surpluses going forward to be transferred as required individually to the LLP, subject to normal governance and approval processes.

**Clause 10.1 relates to Reserved Matters that are reserved for partner approval only.*

Dated _____ 2019

(1) **SOUTH TEES HOSPITALS NHS FOUNDATION TRUST**

- and -

(2) **SOUTH TEES HEALTHCARE MANAGEMENT LIMITED**

- and -

(3) **SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND INNOVATION LLP**

Members Agreement
in relation to
South Tees Institute of Learning, Research and
Innovation LLP

DRAFT - NOT AVAILABLE FOR ACCEPTANCE

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THIS AGREEMENT is made the day of2019

BETWEEN:

- (1) **SOUTH TEES HOSPITALS NHS FOUNDATION TRUST** of The Murray Building, The James Cook University Hospital, Marton Road, Middlesbrough, United Kingdom, TS4 3BW (the "**Trust**"); and
- (2) **SOUTH TEES HEALTHCARE MANAGEMENT LIMITED** a company registered in England and Wales with company number 10166808 and having its registered office at The Murray Building, The James Cook University Hospital, Marton Road, Middlesbrough, United Kingdom, TS4 3BW (the "**Company**");

together the "**Initial Members**"

- (3) **SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND INNOVATION LLP** a limited liability partnership incorporated and registered in England and Wales with company number OC411730 and having its registered office at The Murray Building The James Cook University Hospital, Marton Road, Middlesbrough, United Kingdom, TS4 3BW (the "**LLP**").

RECITALS:

- (A) The LLP was incorporated as a limited liability partnership by the Initial Members pursuant to the Act on 9 May 2016. The LLP has been incorporated for the purpose of carrying on the Business.
- (B) The Members and the LLP have agreed to execute this Agreement to regulate their respective responsibilities and the dealings between them in relation to the Business, and the management and affairs of the LLP from time to time.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement unless the context otherwise requires the following words and expressions shall have the following meanings:

- "Act"** means the Limited Liability Partnerships Act 2000;
- "Agreed Form"** means (as applicable) a document:
 - (a) in a form agreed by the Members and initialled by or on their behalf for identification purposes; or
 - (b) the form executed on or prior to the Effective Date;
- "Annual Accounts"** means the accounts of the LLP prepared in respect of each Financial Year;
- "Auditors"** means such firm of auditors as the LLP may appoint (with the consent of the Trust) from time to time;
- "Bank"** means such bank as the LLP may appoint (with the consent of the Trust) from time to time;
- "Board"** means the management board of the LLP appointed pursuant to clause 11 from time to time;

"Business"	has the meaning given to that expression in clause 4.1;
"Business Day"	means a day (excluding Saturdays, Sundays and public holidays) on which banks generally are open in the City of London for the transaction of normal banking business (other than solely for trading and settlement in Euros);
"Business Plan"	means any annual business plan in relation to the Business as adopted and updated from time to time in accordance with clause 5;
"Capital Contributions"	means an amount equal to the aggregate of its Initial Capital Contribution and all amounts actually contributed to the LLP's capital by a Member in accordance with clause 7 less the total of any such amount which have been repaid to that Member and a "Capital Contribution" means any amount so contributed;
"Chair"	means the chair from time to time of the Board appointed by the Members in accordance with clause 11.3.4;
"Chief Executive"	means principal executive officer of the LLP being the Officer appointed by the Members in accordance with clause 11.3.3;
"Companies Act"	means the Companies Act 2006, as that Act applies to limited liability partnerships;
"Deadlock Matter"	has the meaning given to that expression in clause 28;
"Designated Members"	means at the Effective Date the Initial Members or such of the Members as are designated in accordance with this Agreement and "Designated Member" shall be construed accordingly;
"Dispute"	has the meaning given to that expression in clause 27.1;
"Effective Date"	means the date of this Agreement;
"Financial Year"	means each accounting reference period of 12 months ending on the Financial Year End (other than in relation to the first accounting reference period of the LLP which shall run on and from the incorporation of the LLP and end on the Financial Year End in the following calendar year) or such longer or shorter period as the LLP may agree from time to time with the Trust;
"Financial Year End"	means 31 March in each year or such other date as the Members may agree from time to time;
"Group"	means in relation to an undertaking: <ul style="list-style-type: none"> a) that undertaking; b) any parent undertaking of that undertaking; c) any undertaking which is a subsidiary undertaking of such a parent undertaking; and d) any undertaking (or subsidiary undertaking of such

undertaking) at least one fifth of the issued share capital (or equivalent) of which is beneficially owned by any person falling under (a), (b) or (c),

- e) and each such undertaking is a "**member of the Group**" or "**Group Member**". Unless the context otherwise requires, the application of the definition of Group to any undertaking at any time shall apply to that undertaking as it is at that time;

"Group Chair"	means, in relation to each Member, its Chief Financial Officer for the time being or such other person as a Member notifies in writing to the LLP from time to time;
"Initial Business Plan"	means the first business plan in relation to the Business;
"Initial Capital Contribution"	means a Capital Contribution to be made by a Member pursuant to clause 7.1;
"Intellectual Property"	means any and all know-how, drawings, specifications, photographs, samples, models, processes, procedures, instructions, software, reports and papers, and any other technical and/or commercial information, data and documents of any kind, including oral information as well as any protection offered by law thereto; any patents, utility certificates, utility models, industrial design rights, trademarks, copyrights, domain names, database combinations, divisions, continuations or reissues of any of the foregoing;
"LLP Regulations"	means the Limited Liability Partnerships Regulations 2001 (SI 2001/1090);
"Members"	means the Trust and the Company and any other persons who may from time to time and for the time being be admitted as Members of the LLP in accordance with the terms of this Agreement but excluding any person who has ceased to be a Member, and " Member " shall be construed accordingly;
"Net Profits" or "Net Profit"	means the profits of the LLP for a Financial Year as shown in the Annual Accounts for that Financial Year after all expenditure and including any amounts deemed available for distribution in accordance with clause 8.3;
"Officer"	means any member of a Board;
"Partnership Assets"	means any assets held by the LLP from time to time for the avoidance of doubt including but not limited to its Intellectual Property and any money received from any disposal of such assets;
"Party"	means a party to this Agreement;
"Quarter"	means each period from 1 January to 31 March, 1 April to 30 June, 1 July to 30 September or 1 October to 31 December and " Quarterly " shall be construed accordingly;
"Register of Interests"	has the meaning given to that expression in clause 13.6;
"Scheme of	means the scheme of delegated authority adopted by the LLP

"Delegation"	from time to time;
"Services Agreement"	means the service agreement to be entered into between the Trust, the Company and the LLP on or around the date of this Agreement in respect of services to be provided by the Trust to the LLP; ¹
"Share"	means the entire legal and economic interest, rights and obligations a Member has in and against the LLP from time to time to the extent the same is in its capacity as a member of the LLP (and not, for the avoidance of doubt, in its capacity as a debt provider or service provider or counterparty to any arm's length agreement with the LLP), whether arising under this Agreement, the Act (or other law or regulation relating to limited liability partnerships) or otherwise, including: <ul style="list-style-type: none"> a) all of its interest in the capital of the LLP; b) all of its rights to receive Net Profits; c) all of its rights to receive any other payments or repayments from the LLP to the extent not covered in (a) or (b) above; d) all of its rights to receive any distribution of the assets of the LLP; and e) all of its rights to participate in the management of the LLP;
"Termination Event"	has the meaning given to that expression in clause 20.1; and
"Winding Up Practitioner"	means an agreed independent third party appointed by the Members to administer a winding up of the LLP including distribution of assets of the LLP to those entitled and, in the case of a voluntary insolvent winding up, means a liquidator as referred to under section 91 of the Insolvency Act 1986.

1.2 In this Agreement, unless the context requires a different meaning:

1.2.1 the headings and sub-headings and references to them shall not be deemed to be part of this Agreement and shall not be taken into consideration in the interpretation of this Agreement;

1.2.2 a reference to a statute or a statutory provision includes a reference to:

- (a) the statute or statutory provision as modified or re-enacted or both from time to time (whether before or after the Effective Date); and
- (b) any subordinate legislation made under the statute or statutory provision (whether before or after the Effective Date),

provided that any such modification, re-enactment or legislation made after the Effective Date does not increase the liability under this Agreement of any party beyond that which exists immediately following this Agreement coming into effect;

¹ Services Agreement definition to be finalised.

- 1.2.3 references to clauses, paragraphs and Schedules are references to clauses of, schedules to and paragraphs of schedules to this Agreement;
- 1.2.4 the Recitals and Schedules to this Agreement are an integral part of this Agreement and a reference to this Agreement includes a reference to the Recitals and Schedules. In the event of any inconsistency between the provisions of the body of this Agreement and the Recitals and/or the Schedules, the body of this Agreement shall take precedence;
- 1.2.5 words importing persons shall, where the context so requires or admits, include individuals, firms, partnerships, trusts, councils, corporations, governments, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations and any organisations having legal capacity;
- 1.2.6 where the context so requires words importing the singular only also include the plural and vice versa and words importing the masculine shall be construed as including the feminine or the neuter or vice versa;
- 1.2.7 general words introduced or followed by the word(s) "**other**" or "**including**" or "**in particular**" shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words;
- 1.2.8 where this Agreement states that an obligation shall be performed no later than or within or by a stipulated date or event which is a prescribed number of Business Days after a stipulated date or event, the latest time for performance shall be noon on the last Business Day for performance of the obligations concerned;
- 1.2.9 unless expressly stated otherwise, where consent or approval of any Party is required for any purpose under or in connection with the terms of this Agreement it shall be given in writing and within a reasonable time following a receipt for a request in writing for such consent or approval;
- 1.2.10 references to a Member agreeing to do something or to sign or execute a document shall include a duly authorised representative of the Member giving such consent, and signing or executing such document on behalf of the Member;
- 1.2.11 references to any agreement, document (including this Agreement) or policy include a reference to that agreement, document or policy as validly varied, supplemented, substituted, novated or assigned;
- 1.2.12 the expressions "**body corporate**", "**parent undertaking**" and "**subsidiary undertaking**" shall have the respective meanings given in the Companies Act and a company or an undertaking shall be treated, for the purposes only of the membership requirement contained in subsections 1162(2)(b) and (d) of the Companies Act, as a member of another undertaking even if the shares or capital interests in that other undertaking are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee. In the case of a limited liability partnership which is (or might constitute) a subsidiary or subsidiary undertaking of a company or another limited liability partnership, section 1162 of the Companies Act shall be amended so that:
- (a) references in subsections 1162(2)(a) and (d) to "**voting rights**" are to the members' rights to vote on all or substantially all

matters which are decided by a vote of the members of the limited liability partnership; and

- (b) reference in subsection 1162(2)(b) to the "**right to appoint or remove a majority of its board of directors**" is to the right:
 - (i) to appoint or remove a majority of the directors (or equivalent) of that limited liability partnership; or
 - (ii) if no such directors (or equivalent) exist by virtue of the constitution of that limited liability partnership, members holding a majority of the voting rights,

and unless the context otherwise requires, the application of the definitions of body corporate, parent undertaking and subsidiary undertaking shall apply as to the relevant company or undertaking as it is at that time;

- 1.2.13 any reference to books, records or other information includes paper, electronically or magnetically-stored data, film, microfilm, and information in any other form, and a reference to "**writing**" or "**written**" shall include any legible reproduction of words delivered in permanent and tangible form (but excluding fax and email);
- 1.2.14 any reference to any profits or losses of the LLP include a reference to profits and losses of a capital nature;
- 1.2.15 where the Members, or either of them, have agreed to procure that the LLP or any Board shall do or refrain from doing any particular act, such obligation shall be deemed to have been discharged by them if they shall have exercised all voting rights and other powers of control as are available to them in relation to the LLP to seek to ensure that the particular act occurs or does not occur, as the case may be; and
- 1.2.16 none of the provisions contained in paragraphs 7 and 8 of the LLP Regulations (or any such provisions mentioned in section 5(1)(b) of the Act) shall apply as between or to the LLP and the Members (to the maximum extent permitted by law).

1.3 This clause 1 shall survive termination of this Agreement.

2. **COMMENCEMENT AND PARTIES' OBLIGATIONS ON THE EFFECTIVE DATE**

2.1 This Agreement comes into force on the Effective Date.

2.2 On the Effective Date each Member shall each pay its respective Initial Capital Contribution in accordance with clause 7.1.

2.3 The Members shall procure that as at the Effective Date and upon signature of this Agreement:

2.3.1 the Trust shall recommend and propose the Initial Business Plan of the LLP for adoption by the LLP which shall be approved and adopted by the LLP ; and

2.3.2 the Financial Year End shall be the 31st March;

- 2.3.3 the relevant parties shall execute the Services Agreement which is in the Agreed Form.²
- 2.4 The LLP shall continue in accordance with the Act, despite any person ceasing to be a Member, until it is wound up in accordance with the Act.
3. **MEMBERSHIP**
- 3.1 The first designated members of the LLP shall be the Initial Members. Any appointment or removal of a Designated Member shall be subject to Schedule 1 (*Reserved Matters*). In the event that there are only two Members, both shall be Designated Members.
- 3.2 Subject to the other provisions of this Agreement, the Designated Members shall have all the powers and duties given to designated members under the Act but shall have no other additional rights or obligations in respect of the Members or the LLP by virtue of their position as a Designated Member. Each Designated Member shall not receive any remuneration or reimbursement in connection with its status as a designated member.
- 3.3 The Members may delegate, to a Board, the responsibility for delivering any document on behalf of the LLP which is required to be delivered to the registrar of companies in connection with the LLP by the Designated Members.
- 3.4 A person shall only be admitted as a new additional member of the LLP if its admission is unanimously approved by the Members and such person executes a deed of adherence (in substantially the same form which is annexed to this Agreement at Schedule 2) in which it agrees to be bound by the terms of this Agreement, as amended to apply to such new additional Member.
- 3.5 A Member may not unilaterally resign or withdraw from the LLP as a Member except with the unanimous agreement of the other Member(s).
4. **BUSINESS ACTIVITIES OF THE LLP**
- 4.1 The business of the LLP from time to time (the "**Business**") shall be to:
- 4.1.1 identify, develop and manage the Intellectual Property of the Trust;
 - 4.1.2 develop partnerships with regional industry and academia;
 - 4.1.3 maximise use of the LRI laboratory facilities and create opportunities for local investigators and small external research and development companies;
 - 4.1.4 provide wealth creation and generate a net annual profit for the Trust; and
 - 4.1.5 any other business, service or action approved by the Trust in accordance with clause 10.1.
- 4.2 The LLP shall have full power, capacity and authority to do all acts and things which the LLP may in its absolute discretion consider necessary or desirable (including executing, delivering and performing all contracts and other undertakings and participating in any activities and transactions) pursuant to the Business, in each case in accordance with this Agreement.

² To be confirmed whether any reference to the services that the LLP will provide to the Trust or other third parties are to be included within the LLP Deed e.g. whether approval will be a reserved matter or not.

4.3 The LLP may second, employ or engage any person in accordance with the Business Plan then in force, the Services Agreement [or as otherwise agreed by the Board]³.

5. BUSINESS PLAN

5.1 With the prior written consent of the Trust, the LLP may adopt a Business Plan. The purpose of such Business Plan is to set the overall parameters for the Business. Any Business Plan shall, subject to clause 5.2, contain such information as the Trust determines from time to time.

5.2 The Initial Business Plan shall be prepared by the Trust. In relation to all Business Plans following the Initial Business Plan:

5.2.1 in [January] before the end of each Financial Year, the Board shall prepare, agree and circulate for approval by the end of February to the Members a draft Business Plan for the next Financial Year;

5.2.2 once approved by the Trust, the draft Business Plan shall become the Business Plan of the LLP and, where applicable, in place of the then current Business Plan on and from the start of the first Financial Year to which it relates; and

5.2.3 the Business Plan shall be reviewed by the Board not less than every Quarter thereafter.

5.3 Any variations or updates to the Business Plan shall only be effective if approved by the Trust.

5.4 The Initial Business Plan shall be prepared by the Trust and any subsequent Business Plans shall be substantially in the format of the Initial Business Plan prepared by the Board and approved by the Members.

6. ACCOUNTS AND OTHER FINANCIAL INFORMATION

6.1 The LLP shall keep proper books of account and make true and complete entries of all its dealings and transactions of and in relation to its Business.

6.2 The LLP shall prepare the Annual Accounts for each Financial Year in accordance with generally accepted accounting principles and standards in the United Kingdom at the date on which the accounts are prepared and the Companies Act. The Annual Accounts (together with a report by the Auditors and any other information reasonably required) shall be:

6.2.1 as reasonably practicable following their preparation be put to the Members for consideration (at a meeting or circulated for approval by way of written resolution) and if thought fit approved subject only to any approved variation; and

6.2.2 distributed to each Member as required by the Companies Act.

6.3 Following approval by the Members, the requisite number of designated members shall sign the Accounts and the LLP shall procure that they are filed with the registrar of companies in accordance with the Companies Act.

6.4 The LLP shall supply each of the Members with the following in respect of the LLP:

³ To be confirmed whether this should be a Reserved Matter.

- 6.4.1 the Annual Accounts as soon as practicable and at the latest by three months after the relevant Financial Year End;
 - 6.4.2 Quarterly profit and loss accounts and balance sheets as soon as reasonably practicable following the end of each Quarter; and
 - 6.4.3 all information reasonably required by each Member in relation to the LLP.
- 6.5 Each Member shall be entitled to examine the separate books, records and accounts to be kept by the LLP and to be supplied with all information, including monthly management accounts, operating statistics and other trading and financial information, in such form as such Member may reasonably require, to keep it properly informed about the Business and affairs of the LLP and generally to protect its interests.
- 6.6 Unless the LLP is exempt from audit under the Companies Act, the Trust may:
- 6.6.1 appoint the Auditors of the LLP;
 - 6.6.2 reappoint the Auditors in accordance with the Companies Act;
 - 6.6.3 fix the remuneration of the Auditors; and
 - 6.6.4 remove the Auditors from office.

7. CAPITAL CONTRIBUTIONS

- 7.1 On the Effective Date the Members shall pay the following sums to the LLP as a Capital Contribution:
- 7.1.1 the Trust shall pay £0; and
 - 7.1.2 the Company shall pay £0 (Already £1 provided for),⁴
- (each an "**Initial Capital Contribution**").
- 7.2 No Member shall be required to provide any additional Capital Contribution to the LLP beyond its Initial Capital Contribution unless otherwise unanimously agreed by the Members.
- 7.3 On the admission of an additional Member pursuant to clause 3.4, the Trust shall determine the Capital Contribution to be made by such additional Member if any.
- 7.4 No interest shall be payable on any Capital Contribution.⁵
- 7.5 No Member shall have the right to the return of its respective Capital Contribution except as otherwise provided under the terms of clause 21.
- 7.6 Each Member's liability as a member of the LLP shall be limited to its Capital Contributions.

8. ADDITIONAL FINANCE

- 8.1 The Trust will provide initial funding to the LLP in accordance with the Initial Business Plan and as may be agreed from time to time.⁶ [The total accumulated funds at the date of this Agreement are **£500,000** provided in the 2019/20 budget.]

⁴ Initial Capital Contributions to be determined.

⁵ We note that the existing LLP agreement, refers to the LLP being entitled to receive interest on its Capital Contribution. Please confirm if this is to be the case going forwards.

- 8.2 If the LLP requires funding beyond its income and that already provided, then the Members will consider the most appropriate means by which the LLP obtains such funding.
- 8.3 Except as expressly agreed in writing by the relevant Member, no Member shall be obliged to give or provide any further loan capital to the LLP nor to give or provide any guarantee, indemnity or security in respect of any of the LLP's debts, liabilities or obligations.
9. **PROFITS AND LOSSES⁷**
- 9.1 [Receipts and profits received by the LLP shall be applied in the manner prescribed by the Business Plan or, in the absence of a current Business Plan, in the manner provided by the Trust.
- 9.2 The Members intend that the LLP will distribute as much as possible of its profits available for distribution in each Financial Year after repayment of debt, unless they agree otherwise at the time. The LLP shall not make any Net Profit distribution pursuant to this clause 9.2 (to the extent proposed) if:
- 9.2.1 there is insufficient cash available; or
 - 9.2.2 it would render the LLP insolvent; or
 - 9.2.3 the Board or the Members resolve that the LLP would be left with insufficient funds to meet any current or future contemplated obligations or contingencies; or
 - 9.2.4 it would materially adversely affect the ability of the LLP to comply with any current Business Plan during the following Financial Year; or
 - 9.2.5 it would be a distribution in specie (that is, a distribution of a non-cash asset).
- 9.3 The Members shall decide, acting in the best interests of the LLP and having taken into account the prohibitions on Net Profit distribution set out in clause 9.2 and having taken the advice of the Auditors (if appropriate), what amount (if any) of the Net Profits shall be retained by the LLP in respect of:
- 9.3.1 reserves for general working capital requirements of the LLP for the following Financial Year; and/or
 - 9.3.2 reinvestment back into the LLP in accordance with the Business Plan.
- 9.4 Net Profits shall be allocated to the Members in proportion to their Capital Contributions upon a resolution of the Members and credited to such account as each Member shall nominate in writing to the LLP in advance.
- 9.5 For the avoidance of doubt, until the Members resolve to allocate Net Profits pursuant to clause 9.4, those Net Profits shall form a reserve of the LLP.
- 9.6 If there has been an over-payment of Net Profits to a Member or Members pursuant to this clause 9, the amount of such overpayment shall be repaid in whole or part by the relevant Member(s) (if in part and if there has been over payments of Net Profits to more than one Member, each such Member shall be liable to contribute such

⁶ We understand that a finance paper will follow which is being progressed by the Trust.

⁷ To be discussed.

proportion of the repayment to be made pursuant to this clause 9.6 as is equal to the proportion of the total overpayment received by it).]

10. MANAGEMENT AND CONTROL OF THE BUSINESS

10.1 Subject to clause 10.2, the Members and the LLP agree that the LLP shall not undertake a matter set out in Schedule 1 (a "**Reserved Matter**") without the approval of the Members or as permitted pursuant to the Scheme of Delegation.

10.2 As regards the matters (including any Reserved Matter) specifically contained in a Business Plan or any matter (including any Reserved Matter) which has been delegated through a Business Plan for decision-making purposes to a Board or any other person:

10.2.1 clause 10.1 shall cease to have effect in relation to such matter(s); and

10.2.2 any reference in this Agreement to that matter requiring the approval of the Trust (or similar wording) shall be amended so that it is a reference to that matter requiring the approval of that Board (in accordance with clause 12) or the approval of that other person, as the case may be.

10.3 The LLP shall not undertake any business or action which is inconsistent with a Business Plan then in force or omit to undertake any action which is required by that Business Plan except with the approval of the Trust.

10.4 In the event that the Members agree to appoint a Board, the Members agree to use their respective reasonable endeavours to procure that such Board shall operate in accordance with the provisions of this Agreement and any Business Plan.

10.5 Subject to this Agreement, a Board may delegate any of its powers which are conferred on it under this Agreement in accordance with the Scheme of Delegation:

10.5.1 to such person (whether an Officer or not) or committee;

10.5.2 by such means (including by power of attorney);

10.5.3 to such an extent;

10.5.4 in relation to such matters or territories; and

10.5.5 on such terms and conditions,

as it thinks fit. If a Board so specifies, any such delegation may authorise further delegation of its powers by any person to whom they are delegated. Subject to the terms of any contractual obligations entered into by the LLP, a Board may revoke any delegation in whole or part, or alter its terms and conditions. Any delegation made pursuant to this clause 10.5 may only be made with the unanimous agreement of a Board.

10.6 The provisions of this Agreement applicable to meetings and resolutions of a Board shall apply equally to meetings and proceedings of any committee appointed pursuant to clause 10.5 to the extent that a Board is constituted.

10.7 By executing this Agreement, the LLP appoints and empowers the Officers jointly and severally (but subject to clause 10.1 and any other rights and responsibilities specifically reserved for the Members pursuant to this Agreement or the Act (and, as the case may be, the Designated Members, insofar as those rights and responsibilities have not been delegated pursuant to this Agreement)) to be its attorney and in its name, on its behalf and as its act and deed to approve, execute

and deliver all documents (including deeds) and to do all such things as a Board considers to be required or desirable in connection with the management and control of the Business and the affairs and properties of the LLP. Each of the Members and the LLP shall ratify and confirm all things done and all documents executed by a Board in the proper exercise of all or any of its powers pursuant to this clause 10.7.

11. THE BOARD

- 11.1 The role, responsibilities and duties of any Officer of the LLP are those set out in or established pursuant to this Agreement, the Scheme of Delegation, the Standing Orders of the Board of Directors, the Standing Financial Instructions or are otherwise contained in any agreement between the Officer and the LLP.
- 11.2 Save as permitted by law, the Chair shall be the final authority on the interpretation of the matters set out in clauses 12, 13, 14 and 15 on which he/she should be advised by the Chief Executive in any meeting of the Board.
- 11.3 Unless the Members agree otherwise by unanimous approval, the Members agree and acknowledge that any Board shall be composed of not less than two Officers and as at the Effective Date shall consist of:
- 11.3.1 two representatives of the Trust being Director of Operations Education, Research & Innovation and Director of Research and Development;
 - 11.3.2 two representatives of the Company being the Trust's Chair of Finance and Investment Committee and another Non-Executive Director;
 - 11.3.3 the Trust's Director of Operations Education, Research & Innovation as Chief Executive; and
 - 11.3.4 a separate non-executive director appointed by the Members and who shall act as the chair of the Board.
- 11.4 Officers may only be appointed with the prior written consent of the Trust. The Trust shall be entitled to remove and replace any Officer and appoint a replacement Officer by notice to the LLP.
- 11.5 The membership of the Board will be reviewed periodically and at least once per year with the Chair, Chief Executive and Board.
- 11.6 An Officer shall automatically cease sitting on a Board if:
- 11.6.1 they become bankrupt or make any arrangement or composition with its creditors generally; or
 - 11.6.2 a registered medical practitioner who is treating the Officer (or other person as agreed amongst the Members) gives a written opinion to the LLP stating that the person has become physically or mentally incapable of acting on that Board (and may remain so for more than three months); or
 - 11.6.3 they resign from office by providing 3 months' written notice to the LLP; or
 - 11.6.4 they are convicted of any offence of fraud or dishonesty;
 - 11.6.5 they are prevented or disqualified from being a Officer in accordance with any applicable legislation; or
 - 11.6.6 in the case of an Officer who is also a member of the board of the Trust, such individual ceases to be a member of the board of the Trust.

11.7 An Officer (other than the Chair) may appoint any other individual as his alternate for the purposes of one or more meetings of a Board, provided always that a member of that Board must personally attend at least two out of every three consecutive meetings of that Board. Any notice appointing an alternate shall be in writing and shall take effect upon delivery to the LLP's registered office or production at the first such meeting of any Board at which the alternate attends, whichever is earlier. An alternate may represent more than one Officer and an Officer may represent another Officer.

12. **BOARD MEETINGS AND RESOLUTIONS**

12.1 Unless a Board agrees otherwise, such Board shall hold meetings as often as it considers necessary and not less than once every Quarter.

12.2 Unless a Board otherwise agrees, meetings shall be held at the LLP's registered office. An Officer shall be taken to be present at a Board meeting if linked by telephone or by means of a video conferencing facility to the other Officers also present at the meeting through which he or she can hear and be heard by the other Officers.

12.3 The Chair or any other Officer may at any time call a Board meeting.

12.4 A notice of a Board meeting shall:

12.4.1 specify the time and place of the meeting;

12.4.2 be accompanied by an agenda of the business to be transacted at the meeting, together with a copy of all documents to be circulated or presented to the meeting; and

12.4.3 be given to Officers at least five (5) Business Days before the meeting (or such shorter period as a Board may unanimously agree).

12.5 Subject to clause 12.4.3, the Chair shall endeavour to provide as much notice as reasonably possible of meetings of a Board.

12.6 A meeting of a Board shall not transact any business unless a quorum is present at the start of the meeting. The quorum for any meeting of a Board shall be two Officers.

12.7 If a quorum is not present within 30 minutes from the start time of the meeting or if a quorum subsequently ceases to be present at any time during which business is being conducted at the meeting, the meeting shall be adjourned to be reconvened at the same place and time five (5) clear Business Days later (or such other period as the Officers may unanimously agree).

12.8 A Board shall not decide any matter at a meeting which does not appear in the agenda for that meeting unless otherwise agreed by the Chair.

12.9 At any meeting of the Board, the Chair, if present, shall preside. If the Chair is absent from the meeting the Chief Executive shall preside. If the Chair and Chief Executive are absent such Officer as the Board in attendance decide, shall preside.

12.10 If the Chair is absent temporarily on the grounds of a declared conflict of interest the Chief Executive shall preside during such absence. If the Chair and the Chief Executive are absent, or are disqualified from participating, such Officers present shall choose who shall preside.

- 12.11 The Officers (excluding the Chair) shall elect one of their number to preside during that period and that person shall exercise all the rights and obligations of the Chair including the right to exercise a second or casting vote where the number of votes for and against a motion is equal.
- 12.12 At any quorate meeting of a Board each Officer shall have one vote on any resolution tabled at the meeting.
- 12.13 A resolution of a Board shall be passed by a majority vote in favour of the resolution and, with the exception of a written resolution effected in accordance with clause 12.16, shall only be valid where taken at a quorate meeting of a Board called, convened and held in accordance with this clause 12. In the event of any resolution receiving an equal number of votes, the Chair shall have the casting vote.
- 12.14 A written resolution (which may be in counterparts) of all Officers entitled to receive notice of and vote at a Board meeting signed by each Officer or to which each such Officer has otherwise indicated its agreement in writing shall be as valid as if it had been passed at a Board meeting duly convened and held.
- 12.15 The Officers present at a Board meeting may regulate the taking of minutes at that meeting.
- 12.16 Draft minutes of a Board meeting shall be:
- 12.16.1 prepared and sent to each Officer five (5) Business Days after the meeting to which they relate; and
- 12.16.2 if thought fit, approved at the next Board meeting,

and approved minutes shall be sent to each Officer and each Member five (5) Business Days after the meeting of a Board at which they are approved. For the avoidance of doubt, written resolutions of a Board passed shall not be subject to the foregoing provisions of this clause 12.16.

13. **DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS**

- 13.1 If an Officer has a pecuniary, personal or family interest, whether the interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Board, the Officer shall disclose that interest to the Board as soon as he/she becomes aware of it.
- 13.1.1 Interests which may be declared may include but are not exclusive to:
- (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) shareholdings in organisations likely or possibly seeking to do business with the NHS;
 - (d) a position of trust in a charity or voluntary organisation in the field of health and social care;

- (e) any connection with a voluntary or other organisation contracting for NHS services; or
- (f) any other commercial interest in a decision the Board meeting may be considering.

13.1.2 If an Officer has any doubt about the relevance of an interest, this should be discussed with the Chair.

13.2 At the time an Officer's interests are declared, they should be recorded in the Board minutes. Any changes in interests that have been declared should be notified and updated at the next Board meeting following the change occurring.

13.3 Officers' directorships of companies likely or possibly seeking to do business with the NHS should be published or made available at reasonable request. Such information shall be kept up to date.

13.4 During the course of a Board meeting, if a conflict of interest is established in relation to a certain matter, the Officer concerned should withdraw from the meeting and play no part in the relevant discussion (unless the Board decides otherwise) or decision regarding such matter.

13.5 The interests of an Officer's spouse or cohabiting partner should be declared.

13.6 A register of interests (the "**Register of Interests**") shall be established and maintained to record formally declarations of interests of the Board. In particular the Register of Interests will include details of all directorships and other relevant and material interests which have been declared by the Board.

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

13.8 [The Register of Interests will be available for inspection by members of the public.]

14. **DISABILITY OF CHAIR AND OFFICERS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST**

14.1 For the purpose of this clause the Chair or an Officer shall be treated, subject to clause 14.2, as indirectly having a pecuniary interest in a contract, proposed contract or other matter, if:

14.1.1 he/she, or a nominee of him/her, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matters under consideration; or

14.1.2 he/she is a partner of, or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration; and in the case of persons living together, the interest of one person shall, if known to the other, be deemed for the purposes of this clause to be also an interest of the other.

14.2 The Chair or an Officer shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only because:

14.2.1 of their membership of a company or other body, if he/she has no beneficial interest in any securities of that company or other body; or

14.2.2 of an interest in any company, body or person with which he/she is connected as mentioned in clause 14.1 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of or in voting on, any question with respect to that contract or matter.

15. STANDARDS OF BUSINESS CONDUCT

11.1 If it comes to the knowledge of an Officer that a contract is which he/she has any pecuniary interest not being a contract to which he/she is himself/herself a party, has been, or is proposed to be, entered into by the LLP he/she shall, at once, give notice in writing to the Chief Executive of the fact that he/she is interested therein.

11.3 An Officer must also declare to the Chief Executive any other employment or business or other relationship of him/her, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the LLP. The LLP requires interests, employment or relationships so declared by staff to be entered in a register of interests of staff.

11.4 [Candidates for any staff appointment shall when making application disclose in writing whether they are related to any member of the Board or the holder of any office within the LLP. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him/her liable to instant dismissal.]

11.8. The Chair and every Officer shall disclose to the Chief Executive any relationship with a candidate of whose candidature that the Chair, Members or an Officer is aware. It shall be the duty of the Chief Executive or nominated Officer to report to the Board any such disclosure made.

11.9 On appointment, each Officer (and prior to acceptance of an appointment in the case of a new Officer) should disclose to the Board whether they are related to any other member or holder of any office under the LLP.

11.10 Where the relationship of an Officer or another member of the LLP is disclosed, clause 14 shall apply.

16. BOARD PERFORMANCE

The Chair shall lead, at least annually, a performance assessment process for the Board and for the governance of the LLP generally. This process should act as the basis for determining individual and collective professional development programmes for Officers and for any action that may be required to enhance governance arrangements.

17. MEMBERS' MEETINGS AND RESOLUTIONS

17.1 Meetings shall be held at the LLP's registered office. A Member shall be taken to be present at a Members' meeting if linked by telephone or by means of a video conferencing facility to the other Members also present at the meeting through which it can hear and be heard by the other Members.

- 17.2 The Chair:
- 17.2.1 may at any time; and
 - 17.2.2 if requested by at least one Member, shall within five (5) Business Days of receiving such a request,
call a Members' meeting.
- 17.3 A notice of a Members' meeting shall:
- 17.3.1 specify the time and place of the meeting;
 - 17.3.2 be accompanied by an agenda of the business to be transacted at the meeting, together with a copy of all documents to be circulated or presented to the meeting; and
 - 17.3.3 be given to the Members at least five (5) Business Days before the meeting (or such shorter period as is approved by the Members unanimously).
- 17.4 Subject to clause 17.3.3, the Chair shall endeavour to provide as much notice as reasonably possible of meetings of the Members.
- 17.5 A meeting of the Members shall not transact any business unless a quorum is present at the start of the meeting. The quorum for any meeting of the Members shall be two Members (represented by a duly authorised representative(s)).
- 17.6 If a quorum is not present within 30 minutes from the start time of the meeting or if a quorum subsequently ceases to be present at any time during which business is being conducted at the meeting, the meeting shall be adjourned to be reconvened at the same place and time five (5) clear Business Days later (or such other period as the Members may unanimously decide).
- 17.7 The Members shall not decide any matter at a meeting of the Members which does not appear in the agenda for that meeting unless otherwise agreed unanimously by the Members.
- 17.8 At any quorate meeting of the Members, each Member present and entitled to vote shall have one vote per [£0.01] of Capital Contribution by that Member to the LLP on any resolution tabled at the meeting (no matter how many representatives of that Member may be present at the meeting). Subject to any requirement of the Companies Act requiring a higher majority, a resolution of the Members (whether proposed at a meeting or by way of written resolution in accordance with clause 17.9) is passed by a simple majority.
- 17.9 The Members may approve any matter by way of written resolution that may be approved at a meeting of the Members. A written resolution (which may be in counterparts) shall be circulated to each Member entitled to receive notice of and vote at Members' meeting and is deemed to be approved by a Member if it is signed by or on behalf of that Member or to which that Member has otherwise indicated its agreement in writing. Such resolution shall be as valid as if it had been passed at a Members' meeting duly convened and held.
- 17.10 The Members present at a meeting may regulate the taking of minutes at that meeting.

17.11 Draft minutes of a Members' meeting shall be:

17.11.1 prepared and sent to each Member ten (10) Business Days after the meeting to which they relate; and

17.11.2 if thought fit, approved at the next Members' meeting,

and approved minutes shall be sent to each Member ten (10) Business Days after the meeting of the Members at which they are approved. For the avoidance of doubt, written resolutions of the Members shall not be subject to the foregoing provisions of this clause 13.16.

17.12 A Member may:

17.12.1 by resolution of its board of directors or other governing body or board or committee of the Member (as applicable); or

17.12.2 by any authority executed as a deed or under hand of any officer or officers duly authorised by the Member,

authorise such person(s) as that Member shall agree to act as its representative(s) at any Members' Meeting (or adjournment thereof). Any person so authorised shall be entitled to exercise the same rights on behalf of that Member as the Member would be entitled to exercise at such meeting (provided that all such authorised persons shall be in agreement as to how such rights shall be exercised on behalf of the Member), and that Member shall for the purposes of this Agreement be treated as present in person at any Members' meeting if a person so authorised is present at such meeting.

18. MEMBER AND LLP OBLIGATIONS

18.1 Each Member undertakes to each of the other Members and the LLP that, in its capacity as a Member, it shall exercise its powers (so far as is reasonably practicable) so as to procure that:

18.1.1 it shall exercise all voting rights and other powers of control available to it in relation to the LLP so as to procure (insofar as it is lawfully able by the exercise of such rights and powers) that the LLP complies with the provisions of this Agreement to which the LLP is a Party;

18.1.2 it shall at all times act in good faith towards, and co-operate with, the other Members and the LLP in connection with this Agreement and the performance of its respective obligations hereunder;

18.1.3 it acts in a manner consistent with this Agreement; and

18.1.4 it shall account to the LLP for any profit derived from a business, office or appointment accepted by it or the use of the LLP's name or property of the LLP which is, in each instance, in breach of this Agreement,

provided that each Party shall at all times act in good faith towards the others and shall use all reasonable endeavours to ensure that this Agreement is observed provided that each Member may act in its own interests in relation to any transactions, agreements and arrangements entered into between any Member and/or any of its Group (on the one hand) and the LLP (on the other hand).

- 18.2 The LLP undertakes to each of the Members (and each of the Members shall procure so far as they are reasonably able) to exercise its power (as far as is reasonably practicable) so as to procure that it:
- 18.2.1 enforces the terms of any agreement to which the LLP is a party from time to time;
 - 18.2.2 maintains true and accurate accounts of all transactions in accordance with the Act and makes available both draft and final copies of such accounts to the Members on reasonable request and in any event in accordance with the Act;
 - 18.2.3 maintains adequate insurance (with a reputable insurer) against risks as the Members shall determine appropriate from time to time including third party liability insurance and otherwise in accordance with clause 26;
 - 18.2.4 opens a current account (and any other accounts as the LLP shall require to carry out the Business) in its name with the Bank and that any transactions carried out by the LLP are carried out through one of these accounts and that all accounts set up by the LLP are interest bearing;
 - 18.2.5 takes appropriate action (including pursuing legal proceedings) in the event of negligence or material misconduct on the part of any contractors, advisors or agents of the LLP;
 - 18.2.6 complies with the Act, the LLP Regulations (to the extent that the LLP Regulations apply to the LLP and to the extent that they have not been legitimately excluded in this Agreement), the Companies Act and all other applicable laws, regulations and requirements of any competent jurisdiction or authority affecting the LLP, its Business and the content of any Business Plan;
 - 18.2.7 procures works, equipment, goods and services in accordance with the principles of fair and open competition, value for money, non-discrimination, best value and best practice and with reference to public sector accountability and in accordance with any procurement policy agreed by the Members from time to time, but subject always to compliance with any laws or regulations applicable to the procurement of such works, equipment, goods or services to which the LLP is subject;
 - 18.2.8 documents its decision-making process and maintains appropriate audit trails for decisions made;
 - 18.2.9 acts in a manner that promotes the Business and acts at all times in good faith towards the Members;
 - 18.2.10 does not enter into any transaction at an undervalue without the approval of the Members; and
 - 18.2.11 if it requires any approval, consent or licence for the carrying on of its Business in the places and in the manner in which it is from time to time carried on or proposed to be carried on, uses all reasonable endeavours to obtain and maintain the same in full force and effect.
- 18.3 No payment shall be made by the LLP and no cheque or payment instruction of the LLP shall be signed other than in accordance with the mandates (general or specific) authorised by the Members or, if appointed, any Board from time to time.

18.4 The LLP shall conduct its Business and affairs in a proper and efficient manner and for its own benefit and in accordance with:

18.4.1 the terms of this Agreement;

18.4.2 Schedule 1 (except to the extent that the same contradicts the terms of the main body of this Agreement); and

18.4.3 the Business Plan.

18.5 The LLP shall (and each of the Members shall procure so far as they are reasonably able that the LLP shall) at all times exercise its powers and shall comply with, and with its obligations within, the Business Plan in all respects (except to the extent that the same contradicts the terms of the main body of this Agreement).

19. INFORMATION

19.1 The LLP shall notify the Trust in writing promptly upon its becoming aware of any violation by the LLP of any law, statute, regulation or ordinance of any government entity, or any agency thereof, applicable to the LLP which violation in any respect may materially and adversely affect the business or reputation of the LLP and/or the Trust.

19.2 The LLP shall notify the Trust immediately of any investigation of the conduct or performance of any staff of the LLP which might reasonably be expected to have implications for patient safety, delivery of the services and/or the reputation of the Trust. The LLP will co-operate with the Trust and respond promptly to any requests of the Trust of the person or body conducting such investigation or proceedings, including allowing the Trust reasonable access to any documents or data required, attending any meetings and providing any information reasonably requested.⁸

20. DURATION AND TERMINATION

20.1 The LLP shall be wound up in accordance with clause 21 and this Agreement shall terminate following the occurrence of any of the following events (each a "**Termination Event**"):

20.1.1 the insolvency, dissolution or liquidation of the LLP (other than for the purposes of an amalgamation or reconstruction) or

20.1.2 the written agreement of the Members to voluntarily wind up the LLP.

20.2 The expiry or termination of this Agreement and/or the winding up of the LLP (in each case howsoever arising) shall be without prejudice to the rights and duties of any Party accrued prior to such expiry, termination and/or winding up.

20.3 The clauses in this Agreement which expressly or impliedly have effect after expiry and/or termination of this Agreement and/or winding up of the LLP (in each case howsoever arising) including clause 1 (*Definitions and interpretation*), clause 18.2, this clause 20.3, clause 25 (*Freedom of information*), and any liability under any indemnity and/or guarantee shall continue to be enforceable notwithstanding such expiry, termination or winding up.

⁸ To be discussed whether additional matters should be included within the LLP deed

21. **WINDING UP OF THE LLP**

21.1 On the occurrence of a Termination Event, the LLP and the Members shall procure that, and shall do all such acts and execute all such documents as may be necessary to ensure that, the winding up procedure set out in this clause 21 is followed.

21.2 With effect from the date of the Termination Event and subject to the Insolvency Act 1986, no further activities or operations of the LLP shall be conducted and no contracts shall be entered into by it, except as required to wind down the Business in accordance with this clause 21.

21.3 The Members shall exercise all voting rights and other powers of control available to them in relation to the LLP to procure (to the extent that they are able by the exercise of such rights and powers) that, save as otherwise agreed in writing by the Members and subject to the Act, the Companies Act and the Insolvency Act 1986 and the terms of any third party funding and terms of any debt finance provided by the Members (or either of them), the Partnership Assets shall be distributed by the Winding Up Practitioner in accordance with this clause 21.3. The Partnership Assets shall be distributed in the following descending order of priority:

21.3.1 (subject to any priority arrangement) in paying any holders of a fixed charge (including the Members in their capacity as fixed charge holders) over any Partnership Assets;

21.3.2 in paying the expenses of the winding up;

21.3.3 in paying any preferential creditors of the LLP;

21.3.4 (subject to any priority arrangement) in paying any holders of a floating charge (including the Members in their capacity as floating charge holders) over any Partnership Assets;

21.3.5 to the extent unsecured, in repaying any third party funding and debt finance provide by the Members (or either of them), together with any unpaid interest accrued thereon (if any) to the date of repayment and otherwise in accordance with the terms of the third party funding or Member debt finance;

21.3.6 (where justified and validated) recompensing other unsecured creditors (including any Member who is an unsecured creditor) of the LLP (pro rata to the amount of the LLP's and liability);

21.3.7 to repay the Members' respective Capital Contributions (pro rata); and

21.3.8 any surplus shall be distributed to the Members in the proportions in which their Capital Contributions bear to each other. Any Partnership Assets (whether tangible or intangible) which remain the ownership of the LLP following payment of all debts and liabilities of the LLP shall, unless otherwise agreed by the Members, be owned jointly by the Members.

21.4 If after (or when as appropriate) paying the debts and liabilities of the LLP there are no assets, or insufficient assets, to repay to each Member:

21.4.1 the whole of any unsecured or secured loans made to the LLP; and/or

21.4.2 the whole of their respective Capital Contributions,

the LLP shall not be liable for the shortfall and there shall be paid to the Members only the amount of those remaining assets (if any).

21.5 For the purposes of section 74 of the Insolvency Act 1986 as it is applied to limited liability partnerships, no Member is liable to contribute any amount to the assets of the LLP on liquidation to cover any of the matters set out in that section.

22. **LLP PROPERTY**

22.1 All property held, created, occupied or employed by the LLP for the purposes of carrying on the Business and all property which has been paid for by the LLP or transferred to the LLP by any Member or has otherwise accrued to the LLP, is owned by the LLP absolutely and the Members shall have no individual rights in that property other than those rights under this Agreement and then by their entitlement to such capital distributions as may be due to them under this Agreement or following liquidation of the LLP.

22.2 Where it is necessary for property used for the purposes of the LLP to be held on behalf of the LLP by one or more Members, the Members concerned shall, at the LLP's request and in the manner specified by the LLP, document the LLP's interest in that property by executing a declaration of trust or similar acknowledgement.

23. **INTELLECTUAL PROPERTY**

23.1 The Intellectual Property of the LLP shall be dealt with as set out in the Service Agreement (as may amended from time to time).

24. **ANTI-BRIBERY AND CORRUPTION**

24.1 Each Party covenants and undertakes with the other Parties that it will not, directly or indirectly:

24.1.1 give, promise, offer or authorise; or

24.1.2 accept, request or agree to receive;

any payment, gift, reward, rebate, contribution, commission, incentive, inducement or advantage to or from any person in contravention of the Bribery Act 2010.

25. **FREEDOM OF INFORMATION**

25.1 In this clause 25.1, unless the context requires a different meaning, the following words and expressions have the following meanings:

"EIR" means the Environmental Information Regulations 2004;

"FoIA" means the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such Act;

"Information" means has the meaning given under section 84 of the Freedom of Information Act 2000; and

"Requests for Information" means shall have the meaning set out in the FoIA or the EIR (as relevant).

25.2 The Parties accept that each of them is subject to the requirements of the FoIA and the EIR and each of them shall facilitate each of the other Parties' compliance with its

Information disclosure requirements pursuant to the same in the manner provided below.

- 25.3 Where one of the Parties ("A") receives a Request for Information in relation to Information that another of the Parties ("B") is holding on its behalf, A shall transfer to B such Request for Information that it receives as soon as practicable and in any event within five (5) Business Days of receiving a Request for Information and B (in the case of the LLP acting by any Board) shall:
- 25.3.1 provide A with a copy of all such Information in the form that A reasonably requires for the purposes of complying with the FoIA as soon as reasonably practicable and shall use all reasonable endeavours to provide such information within ten (10) Business Days (or such other period as A may, acting reasonably, specify) after A's request; and
 - 25.3.2 provide all necessary assistance as reasonably requested by A in connection with any such Information, to enable A to respond to a Request for Information within the time for compliance set out in section 10 of the FoIA or section 5 of the EIR as applicable.
- 25.4 Following such notification and up until such time as the LLP has provided A with all the Information specified in clause 25.3, B may make representations to A as to whether or not or on what basis Information requested should be disclosed, and whether further information should reasonably be provided in order to identify and locate the Information requested.
- 25.5 No Party shall respond directly to a Request for Information relating to information held by them on behalf of another Party to this Agreement unless authorised to do so by that other Party.
- 25.6 Each Party acknowledges that any lists provided by it, listing or outlining confidential information, are of indicative value only and that another Party may nevertheless be obliged to disclose confidential information pursuant to their obligations under FoIA or EIR.
- 25.7 Each of the Parties acknowledges that the other Parties may receive Requests for Information received in relation to information held by that Party which relates to the LLP, this Agreement or the Business, that it is for each Party to take decisions on disclosure in response to such Requests for Information and that each Party may disclose such information in response to a Request for Information which relates to such information. However before taking a decision on disclosure in response to such a Request, to the extent reasonably practicable in the circumstances each Party shall, acting in accordance with relevant Information Commissioner guidance and the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part I of the FoIA and the Code of Practice on the discharge of the obligations of public authorities under the EIR, consult with the other Parties regarding the disclosure of information relating to the LLP, the Business and this Agreement and the applicability of any exemptions under the FoIA and the EIRs, and take any representations from the other Parties into account before reaching a final decision on disclosure.
- 25.8 Each Party shall ensure that all Information held on behalf of another Party is retained for disclosure for at least six years from the date it is required and shall permit that other Party to inspect such Information as requested from time to time.

26. **INSURANCE**

The LLP shall take out and maintain with reputable insurers all insurances agreed to be appropriate by the Members and otherwise as required to be maintained by law and such other prudent insurances against such risks as are normally insured against by businesses carrying on activities similar to those of the LLP (including, but not limited to, an appropriate level of third party liability insurance) and (without prejudice to the generality of the foregoing) shall insure its assets of an insurable nature for their full replacement or reinstatement value.

27. **DISPUTES**

27.1 If any dispute arises in connection with this Agreement (the "**Dispute**"), then a senior representative of each Member (as nominated by that Member) with the authority to settle the Dispute will, within fifteen (15) Business Days of receipt of a written request from one Member (the "**Requesting Member**") to the other Members, meet in a good faith effort to resolve the Dispute.

27.2 Within five (5) Business Days of receipt of the written request pursuant to clause 27.1, the Requesting Member shall prepare a paper for circulation to the other Members setting out the issues in dispute, the reasons for the position taken by the Requesting Member and potential solutions or compromises to resolve the Dispute. After the papers have been circulated, the Members shall communicate on at least two separate occasions within the remaining period of ten (10) Business Days, in an effort to resolve the Dispute prior to the initial meeting to be held pursuant to clause 27.1.

27.3 If the Dispute is not resolved within one calendar month of the initial meeting held pursuant to clause 27.1, then any Member may refer the Dispute to each Member's Group Chair. For the purposes of clause 28, the date of such referral shall be the "**Referral Date**".

27.4 If the Dispute is not resolved within ten (10) Business Days of the Referral Date, then the provisions of clause 28 shall apply.

28. **[DEADLOCK⁹**

28.1 Subject to clause 28.2, a matter shall constitute a "**Deadlock Matter**" if at any time after the Effective Date:

28.1.1 the Board is unable to arrive at a unanimous decision on any matter requiring its approval within twenty (20) Business Days after the date on which the matter was first presented at a quorate meeting of the Board or by way of a draft written resolution; or

28.1.2 the Members by reason of disagreement between themselves are unable to arrive at a unanimous decision on any matter requiring their approval within twenty (20) Business Days after the date on which the matter was first presented to them at a quorate Members' meeting or by way of a draft written resolution;

28.1.3 a Dispute referred to the Group Chairs pursuant to clause 27.3 is not resolved by those persons within a period of ten (10) Business Days of the Referral Date; or

⁹ Dispute provisions to be considered, but have been inserted to 'future-proof' the deed in the case of additional parties becoming members of the LLP

- 28.1.4 this Agreement expressly provides that such matter shall constitute (or shall be deemed to constitute) a Deadlock Matter.
- 28.2 The following shall not constitute Deadlock Matters:
- 28.2.1 any decision required to update the Business Plan; or
- 28.2.2 any other matter which this Agreement expressly provides may not constitute a Deadlock Matter.
- 28.3 As soon as reasonably practicable but in any event within five (5) Business Days following a Deadlock Matter having arisen in accordance with clause 28.1 above, a Member may give notice to the others and the LLP in writing (a "**Deadlock Notice**") referring to the Deadlock Matter to the Members and setting out a proposed course of action for its resolution. The Members shall use their respective reasonable endeavours to resolve the Deadlock Matter within twenty (20) Business Days of receipt of the Deadlock Notice.
- 28.4 If the Members agree on how to resolve the Deadlock Matter within twenty (20) Business Days of receipt of the Deadlock Notice ("**Member Resolution Period**"), they shall jointly draft and sign a statement setting out the terms of such resolution which shall forthwith be served on the Board. The Board shall procure that such resolution is fully and promptly carried into effect.
- 28.5 If the Members have not agreed on how to resolve the Deadlock Matter within the Member Resolution Period, the Group Chairs of the Members shall meet in good faith in an effort to resolve the Deadlock Matter.
- 28.6 If the Group Chairs have resolved the Deadlock Matter within fifteen (15) Business Days of the expiry of the Member Resolution Period (the "**Group Chair Resolution Period**") (the first day of that fifteen (15) Business Day period being the first Business Day after the expiry of the Member Resolution Period), they shall issue a joint written statement to the Board informing the Board of their decision. The Board shall procure that such statement is fully and promptly carried into effect.
- 28.7 If the Group Chairs are unable to resolve the Deadlock Matter within the Group Chair Resolution Period, then the Members shall meet together in good faith to resolve the dispute by:
- 28.7.1 one or more Members agreeing to acquire the Share(s) of the other(s) providing that there shall at all time be two or more Members;
- 28.7.2 winding up the LLP in accordance with clause 21; or
- 28.7.3 such other method as the Members may unanimously agree.
- 28.8 In no circumstances shall any Member artificially create a Deadlock Matter with a view to the LLP being wound up. For the purposes of this clause 28.8, a Member shall artificially create a Deadlock Matter if:
- 28.8.1 that Member (itself, or through its Officer) persists in voting against an issue or proposal in any case where the passage or approval of the same is reasonably required to enable the LLP to carry on its Business properly and efficiently and in accordance with the Business Plan in force; and
- 28.8.2 support for that issue or proposal is not directly contrary to the significant business interests of that Member nor contrary to its obligations under this or any other agreement between it and any other Party.

28.9 In relation to any Deadlock, nothing in this clause 28 shall restrict or prevent any statutory right of either Member or the LLP from seeking from any court of competent jurisdiction an interim order restraining another Member from doing an act or compelling another Member to do any act.]

29. **TAXATION**

The LLP shall have no responsibility for meeting the taxation liability of any Member, in any circumstances. All Members shall be responsible for meeting their own liability to pay tax of any nature whatsoever, including without prejudice to the foregoing generality, any corporation tax, value added tax, income tax, national insurance and capital gains tax.

30. **ANNOUNCEMENTS**

30.1 Subject to clause 30.2, no Party shall make nor send after the Effective Date any announcement, communication or circular relating to the subject matter of this Agreement unless such Party has first obtained the other Parties' written consent to the form and text of such announcement, such consent not to be unreasonably withheld.

30.2 Clause 30.1 does not apply to an announcement, communication or circular required by law or by the rules of any stock exchange or by any regulatory or governmental authority, in which event the Party required to make or send such announcement, communication or circular shall, where practicable, first consult with the other Parties as to the content of such announcement.

31. **NOTICES AND COMMUNICATIONS**

31.1 Any notice or other communication pursuant to, or in connection with, this Agreement shall be in writing and delivered personally, or sent by pre-paid first class post, to the Party due to receive such notice at the following address (or to such other address as may from time to time have been notified in writing to the other Parties in accordance with this clause 31):

In the case of the Trust:

Address: The Murray Building, The James Cook University Hospital, Marton Road, Middlesbrough, TS4 3BW

For the attention of: []¹⁰

In the case of the Company

Address: The Murray Building, The James Cook University Hospital, Marton Road, Middlesbrough, TS4 3BW

For the attention of: []

In the case of the LLP:

Address: The Murray Building, The James Cook University Hospital, Marton Road, Middlesbrough, TS4 3BW

For the attention of: []

¹⁰ Contact details for notices to be confirmed and inserted.

31.2 Subject to clause 31.3, any notice or other communication shall be deemed to have been served:

31.2.1 if delivered personally, when left at the address referred to in clause 31.1; or

31.2.2 if sent by pre-paid first class post (other than air mail), two days after posting it.

31.3 If a notice is given or deemed given at a time or on a date which is not a Business Day, it shall be deemed to have been given at 9 am on the next Business Day.

31.4 Where a Member receives a notice or other communication (whether from any other Party or any third party) which was intended for the LLP it shall forward such communication to the LLP as soon as reasonably practicable.

31.5 Where the LLP's registered address is that of a Member and that Member receives any notice or communication (whether from any other Party or any third party) addressed to the LLP, that Member shall provide the other Member and the LLP with a copy of such communication as soon as reasonably practicable.

32. **INVALIDITY AND SEVERANCE**

If any provision of this Agreement is held to be unenforceable or illegal, in whole or in part, such provision or part shall to that extent be deemed not to form part of this Agreement but the enforceability of the remainder of this Agreement shall remain unaffected. Notwithstanding the foregoing, the Parties shall thereupon negotiate in good faith in order to agree the terms of a mutually satisfactory provision, achieving so nearly as possible the same commercial effect, to be substituted for the provision so found to be unenforceable or void.

33. **WAIVER**

33.1 No consent or waiver, express or implied by a Party of any breach or default of another Party in performing its obligations under this Agreement shall be deemed or construed to be a consent or waiver of any other breach of default by such Party of the same or any other obligation hereunder. Failure on the part of any Party to complain of any act or failure to act of another Party or to declare the Party in default shall not constitute a waiver by such Party of its rights hereunder.

33.2 The rights and remedies provided by this Agreement are cumulative and (subject as otherwise provided in this Agreement) are not exclusive of any rights or remedies provided by law.

34. **THIRD PARTY RIGHTS**

A person who is not a Party shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Agreement provided that this does not affect any right or remedy of the third party which exists or is available apart from that Act. No Party may declare itself as a trustee of the rights under this Agreement for the benefit of any third party save as expressly provided in this Agreement.

35. **COSTS**

Each of the Parties shall pay its own costs in relation to the negotiation, preparation, execution and implementation of this Agreement and of each document referred to in this Agreement. The costs of the incorporation and establishment of the LLP shall be borne and paid by the LLP.

36. **ENTIRE AGREEMENT**

This Agreement sets out the entire agreement and understanding between the Parties. Accordingly this Agreement supersedes and extinguishes all previous agreements, arrangements and/or understandings (whether written or oral) between the Parties relating to such subject matter save insofar as a third party may have rights under any of them.

37. **AMENDMENTS**

This Agreement may be amended only by an instrument in writing signed by duly authorised representatives of each of the Parties provided that the amendment of any provision of this Agreement solely affecting any of the respective rights or obligations of the Members or either of them as between them shall not require the agreement of the LLP.

38. **FURTHER ASSURANCE**

Each Party agrees that it will from time to time and at its own cost and at the reasonable request of another Party execute any document and do any act, and use all reasonable endeavours to procure that any third party (where necessary) executes any deed or document and does any act, in each case as is reasonably required to implement the terms of this Agreement.

39. **SUCCESSORS AND ASSIGNS**

Except as otherwise specified in this Agreement, the provisions of this Agreement shall be binding on and ensure to the benefit of the heirs, personal representatives, successors and assigns of the respective Parties.

40. **UNFAIR PREJUDICE**

Any rights conferred on the Members by section 994 of the Companies Act (as modified by the Regulations) are hereby excluded.

41. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts and by each of the Parties on separate counterparts, each of which when executed and delivered shall be deemed to be an original, but all the counterparts together shall constitute one and the same agreement.

42. **GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with English law. Each Party hereby submits to the exclusive jurisdiction of the English courts to hear and determine any suit, action or proceeding and to settle any disputes which may arise out of or in connection with this Agreement and each Party irrevocably waives any objection which it may have to the Courts of England being nominated as the forum to hear and determine any such proceedings and to settle any such disputes and agrees not to claim that the courts of England are not a convenient or appropriate forum.

EXECUTED AND DELIVERED AS A DEED by the Parties on the date which first appears in this Agreement.

SCHEDULE 1

Matters Reserved for the Approval of the Members¹¹

1. Any variation or amendment of this Agreement.
2. Any material change in the nature of the Business.
3. The acquisition or disposal by the LLP of any partnership interest, share capital or other securities in a body corporate or any amalgamation, merger or consolidation of the LLP or its assets, property and/or Business.
4. The acquisition by the LLP of any asset in excess of [£150,000] or the acceptance of any liability having a value in excess of [£150,000].
5. The creation of any mortgage, charge, encumbrance or other security interest whatsoever over the whole or any part of the Business, undertaking or assets of the LLP or agreeing to do so, other than liens arising in the ordinary course of business or any charge arising by the operation or purported operation of title retention clauses in the ordinary course of business.
6. The LLP making any loan or granting any credit (other than in the normal course of trading) or giving any guarantee or indemnity.
7. [Any obligation of the LLP outside the ordinary course of business which could involve payment by it, in case or otherwise, of amounts in excess of [£150,000] in the aggregate in any 12 month period.] **OR** [The LLP consents to any expenditure other than as agreed upon in a Business Plan in force from time to time.]
8. Any voluntary dissolution of the LLP.
9. Any decision to place the LLP into voluntary liquidation under the Insolvency Act 1986.
10. Any decision for the LLP to make a proposal for a voluntary arrangement, scheme of compromise or arrangement with its creditors under the Insolvency Act 1986.
11. The approval of the statutory accounts.
12. The altering of the name of the LLP.
13. Any transaction by the LLP with any Member or any associate of any Member having a value in excess of [£150,000].
14. The granting or entering into of any licence, agreement or arrangement concerning any part of the name of the LLP or any of its intellectual property rights.
15. The LLP instituting any legal proceedings, or settling or compromising any legal proceedings (other than debt recovery proceedings in the ordinary course of business) instituted or threatened by or against the LLP, or submitting to arbitration or alternative dispute resolution any dispute involving the LLP.
16. Any other matter specifically referred to in this Agreement as requiring the consent or approval of the Trust.
17. The admission of a new additional member of the LLP.
18. The making of any Capital Contribution in addition to its Initial Capital Contribution.

¹¹ Financial limits in this Schedule to be confirmed.

19. Any matter which, under the Companies Act 2006 must be considered by the shareholders of a subsidiary which is incorporated as a company.
20. The engagement of any consultant or employment of any individual by the LLP or any variation of any consultancy or employment agreement.
21. The LLP forming any subsidiary undertaking or acquiring shares in any other company or participating in any partnership or joint venture (incorporated or not).
22. Any variation or amendment to the Scheme of Delegation.
23. Any variation or amendment to the Standing Financial Instructions. The approval of the LLP Investment Policy.
24. The approval of the Business Plan.

SCHEDULE 2

Deed of Adherence

PARTIES

- (1) The persons named in the Schedule as the existing members of the LLP (the "**Existing Members**");
- (2) **SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND INNOVATION LLP** a limited liability partnership incorporated and registered in England and Wales with company number OC411730 and having its registered office at The Murray Building The James Cook University Hospital, Marton Road, Middlesbrough, United Kingdom, TS4 3BW (the "**LLP**"); and
- (3) [NEW MEMBER] of [ADDRESS] (the "**New Member**").

BACKGROUND

- (A) The Existing Members carry on the Business the terms of the LLP Deed (as defined below) made between them and dated [DATE]. This deed is supplemental to the LLP Deed.
- (B) The New Member has agreed to execute this deed under which he shall adhere to and be bound by the LLP Deed.

AGREED TERMS

1. INTERPRETATION

- 1.1. In this deed the following definitions shall apply:

"Effective Date"	the date of this deed; and
"LLP Deed"	the members agreement made between the Existing Members and the LLP dated 2019 as may be amended from time to time.

- 1.2. Words and expressions used in this deed shall, except where the context otherwise requires, bear the same meaning as in the LLP Deed.
- 1.3. The principles of construction as set out in clause 1.2 of the LLP Deed shall have effect as though they were set out in full in this deed.

2. ADHERENCE TO THE LLP AGREEMENT

The New Member confirms that [he/she/it] has been supplied with a copy of the LLP Deed. The New Member, the LLP and each of the Existing Members undertake with each other to be bound by, observe and perform the LLP Deed as if the New Member had been an original party to the LLP Deed and was named in the LLP Deed.

3. CAPITAL

The New Member [has paid **OR** shall within five (5) Business Days of the Effective Date pay] [a capital contribution of £[AMOUNT] by making a payment to the LLP's

account at the Bank.

4. **PROFITS**

From the Effective Date, the New Member shall be entitled to Net Profits under clause 9 of the LLP Deed.

5. **VARIATION OF THE LLP AGREEMENT**

5.1. [DETAILS TO BE SET OUT AS APPROPRIATE].

5.2. All other terms of LLP Deed shall be unamended.

6. **COUNTERPARTS**

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

7. **GOVERNING LAW AND JURISDICTION**

7.1. This deed and any disputes or claims (including non-contractual disputes or claims) arising out of or in connection with it, its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

7.2. Each party irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE

Existing Members

1. South Tees Hospitals NHS Foundation Trust
2. South Tees Healthcare Management Limited

SIGNATURE PAGE

EXECUTED AND DELIVERED AS A DEED BY
a duly authorised director for and on behalf of
[FULL NAME OF EXISTING MEMBER] in the
presence of:

.....
(Signature)

WITNESS:

Signature

Name

Address

.....
.....
.....

Occupation

.....

EXECUTED AND DELIVERED AS A DEED BY
a duly authorised member for and on behalf of
SOUTH TEES INSTITUTE OF LEARNING,
RESEARCH AND INNOVATION LLP in the
presence of:

.....
(Signature)

WITNESS:

Signature

Name

Address

.....
.....
.....

Occupation

.....

EXECUTED AND DELIVERED AS A DEED BY

a duly authorised director for and on behalf of
[FULL NAME OF NEW MEMBER] in the
presence of:

.....
(Signature)

WITNESS:

Signature

Name

Address

.....

.....

.....

Occupation

.....

SIGNATURE PAGE

The Corporate Common Seal of) Seal:
SOUTH TEES HOSPITALS NHS)
FOUNDATION TRUST)
was hereunto affixed in the presence of)
..... and)
..... as authorised)
signatories)
.....)
Authorised signatory)
.....)
Authorised signatory)

EXECUTED AND DELIVERED AS A DEED BY
a duly authorised director for and on behalf of
SOUTH TEES HEALTHCARE MANAGEMENT
LIMITED in the presence of:

.....
(Signature)

WITNESS:

Signature

Name

Address

.....

.....

.....

Occupation

.....

EXECUTED AND DELIVERED AS A DEED BY
a duly authorised member for and on behalf of
SOUTH TEES INSTITUTE OF LEARNING,
RESEARCH AND INNOVATION LLP in the
presence of:

.....
(Signature)

WITNESS:

Signature

Name

Address

.....

.....

.....

Occupation

.....

Dated _____ 2019

(1) SOUTH TEES HOSPITALS NHS FOUNDATION TRUST

- and -

(2) SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND INNOVATION LLP

Support Services Agreement

DRAFT 3

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THIS CONTRACT is made the day of2017

BETWEEN:

- (1) **SOUTH TEES HOSPITALS NHS FOUNDATION TRUST** of The James Cook University Hospital, University Hospital, Marton Road, Middlesbrough, TS4 3BW (the "**Trust**"); and
- (2) **SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND INNOVATION LLP** of The James Cook University Hospital, University Hospital, Marton Road, Middlesbrough, TS4 3BW (the "**LLP**")

each a "Party" and together the "Parties".

BACKGROUND:

- (A) The Trust incorporated the LLP on 9 May 2016 for the purpose of creating a company structure through which the Trust could expand, develop and grow its research and innovation capacity on a commercial footing. The LLP will eventually take on all research, learning and development functions of the Trust in accordance with its business strategy.
- (B) The Trust agrees to make available to the LLP certain facilities and services defined as "Support Services" below subject to the terms of this Contract in order to assist the LLP with the provision of the research, learning and development functions.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS

1.1 In these terms and conditions the words and expressions below will be interpreted to have the following meanings:

- "Affected Party"** in the context of clause 14, the Party whose obligations under the Contract have been affected by the occurrence of a Force Majeure Event;
- "Authorised Officer"** that person designated as authorised by a Party in accordance with its internal governance procedures to exercise on its behalf the powers of an authorised officer under this Contract. References to Authorised Officer shall be deemed to extend to any duly authorised nominee of that person;
- "Background IPR"** (a) the IPR owned by either Party before the Commencement Date; and/or
(b) IPR created by the Parties independently of this Agreement;
- "Charges"** the sum payable by the LLP to the Trust in consideration of the Support Services as detailed in relation to each individual Support Service in Schedule 1;
- "Commencement Date"** 1 April 2018;
- "Confidential Information"** information, data (including the Trust Data) and/or material of any nature which either Party may receive or obtain in connection with the operation of the Contract and;

	<ul style="list-style-type: none"> (a) which comprises Personal Data or Sensitive Personal Data (as both terms are defined in the Data Protection Legislation) or which relates to any patient or his or her treatment or medical history; or (b) the release of which is likely to prejudice the commercial interests of any Party or the interests of a patient respectively; or (c) which is a trade secret;
"Contract"	this agreement in relation to the provision of the Support Services concluded between the Parties, including all documents incorporated or referred to herein;
"Data Controller"	has the meaning given in the Data Protection Legislation;
"Data Processor"	has the meaning given in the Data Protection Legislation;
"Data Protection Legislation"	<p>means all applicable data protection and privacy legislation, regulations and guidance including:</p> <ul style="list-style-type: none"> (i) prior to 25 May 2018, the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any guidance or codes of practice issued by the Information Commissioner from time to time (from time to time); and (ii) with effect from 25 May 2018 onwards Regulation (EU) 2016/679 (or, in the event that the UK leaves the European Union, all applicable legislation enacted in the UK in respect of the protection of personal data) (the "General Data Protection Regulation" or "GDPR") and the Privacy and Electronic Communications (EC Directive) Regulations 2003;
"Data Subject"	has the meaning given in the Data Protection Legislation;
"Dispute Resolution Procedure"	the procedure for resolving any disputes under this Contract as set out in clause 19;
"Force Majeure Event"	<p>an event beyond the reasonable control of the Affected Party including, but not limited to:</p> <ul style="list-style-type: none"> (a) war, civil war (whether declared or undeclared), riot or armed conflict; (b) nuclear, radioactive, chemical or biological (c) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speed; (d) acts of terrorism; and (e) acts of God;
"Foreground IPR"	any IPR generated during the Term of the Agreement by the

LLP either individually or in conjunction with any third parties and whether using the Trust's Background IPR or the LLP's Background IPR;

"Function"	the learning, research and innovation services provided by the LLP;
"GDPR Enforcement Date"	means the date on which the General Data Protection Regulation is in full force and effect in the UK;
"Good Industry Practice"	the exercise of that degree of skill, diligence and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in the provision of services similar to the Support Services under the same or similar circumstances as those applicable to the Contract and which are in accordance with any codes of practice published by relevant trade associations;
"Insolvency Event"	<p>in relation to a Party, the occurrence of any of the following events:</p> <ul style="list-style-type: none">(a) a petition being presented or an order being made or a meeting being convened to consider the passing of a resolution or any other action being taken for or with a view to the winding-up of a Party;(b) an order being made for the administration of a Party;(c) a Party entering into liquidation whether compulsorily or voluntarily (except for the purposes of reconstruction of a solvent company);(d) a Party stopping or threatening to stop payments to its creditors generally;(e) a Party ceasing or threatening to cease trading;(f) a Party being deemed for the purpose of Section 123 of the Insolvency Act 1986 to be unable to pay its debts or admitting in writing its inability to pay its debts as they become due or otherwise becoming or being declared by any competent authority to be or declaring itself to be insolvent;(g) a Party convening a meeting of its creditors with a view to proposing or making any assignment, arrangement or composition with or for the benefit of its creditors or any class or group thereof; or(h) an administrative receiver or a receiver being appointed of all or any part of the undertaking, property or assets of a Party;

" Intellectual Property Rights" or IPR"	<ul style="list-style-type: none"> (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information; (b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) above that are capable of being registered in any country or jurisdiction; and (c) all other rights, including unregistered rights, having equivalent or similar effect in any country or jurisdiction;
"Know-How"	all ideas, concepts, schemes, information, knowledge techniques, methodology and anything else in the nature of know-how relating to the Support Services;
"Law"	<ul style="list-style-type: none"> (a) any applicable statute or proclamation or any (b) any enforceable community right within the meaning of section 2(1) European Communities Act 1972; (c) any applicable guidance, direction or determination with which the Parties are bound to comply to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Parties; and (d) any applicable judgement of a relevant court of law which is a binding precedent in England and Wales;
"Licence"	the licence to occupy which the Trust and the LLP have entered into which gives the LLP occupation rights of any the Trust Sites which are necessary for the LLP to perform the Function and as set out in Schedule 2;
"LLP Personal Data"	means Personal Data Processed by the Trust on behalf of the LLP in its provision of the Support Services;
"Month"	a calendar month and "Monthly" should be construed accordingly;
"National Data Guardian"	the body which advises and challenges the health and care system to help ensure that citizens' confidential information is safeguarded securely and used properly and its predecessor body the Independent Information Governance Oversight Panel;

"NHS Treatment"	treatment provided under the terms of the National Health Service Act 1977 and/or the National Health Service and Community Care Act 1990 or the NHS Act 2006 (or any replacement or additional Act or Acts) to patients who do not give undertakings (and for whom undertakings are not given except under the terms of either of those Acts) to pay for such services or Clinical Commissioning Groups or other healthcare services provided substantially at the cost of the state;
"Personal Data"	has the meaning given in the Data Protection Legislation;
"Processing"	has the meaning given in the Data Protection Legislation (and "Process" and "Processed" shall be construed accordingly);
"Replacement Contractor"	any contractor engaged to replace the Trust or any sub-contractor of the Trust (which may include the LLP);
"Specification"	the description of the Support Services in Schedule 1;
"Support Services"	the support services set out in the Specification to be made available by the Trust to the LLP pursuant to this Contract subject to such amendments as may be agreed by the Parties from time to time;
"Term"	has the meaning in clause 2;
"Trust Data"	<ul style="list-style-type: none"> (a) any medical records relating to a patient of the Trust; (b) any literature, information and data produced by the Trust for or on behalf of the LLP in the delivery of the Support Services; and (c) any other information, software or data provided by the Trust to the LLP;
"Trust Equipment"	all equipment, instruments, furniture or other items at the Trust Sites required during or for the purposes of the Function;
"Trust Sites"	any premises owned and/or occupied by the Trust;
"Trust Staff"	any person engaged or employed by the Trust in or about the provision of Support Services;
"TUPE"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) Regulations 2014 and any subsequent amendment, consolidation or other variation of such regulations from time to time in force;
"Working Day"	Monday to Friday excluding public holidays in the UK; and
"Year"	during the Term any twelve (12) Month period commencing on the Commencement Date or any anniversary thereof.

1.2 The references to statutory provisions shall be construed as references to those provisions as subsequently amended or re-enacted (whether before or after the date

of this Contract) from time to time and shall include any provisions of which they are re-enactments (whether with or without modification).

1.3 The headings are inserted for convenience only and shall not affect the construction of this Contract.

1.4 The Schedule forms part of this Contract. In the event of any conflict or inconsistency between any provision of any clause with any provision of the Schedule, the clauses shall prevail.

2. TERM

2.1 This Contract shall remain in force from the Commencement Date until terminated in accordance with clause 15 (Termination) or clause 14 (Force Majeure).

3. PARTIES' OBLIGATIONS

3.1 The Parties will co-operate with each other in good faith and will take all reasonable action as is necessary for the efficient transmission of information and instructions and to enable the Parties to derive the full benefit of the Contract.

LLP Obligations

3.2 Subject to the Trust providing the Support Services in accordance with this Contract, the LLP will pay the Trust the Charges in accordance with clause 4.

3.3 The LLP shall not hold itself out as the Trust or act or in any way represent that it is acting on behalf of the Trust, acting as agent of the Trust or has the right or authority to negotiate, conclude or execute any contract or legal document with any third party in the name of the Trust.

3.4 The LLP shall not at any time do or omit to do anything that is or may be detrimental to the reputation of the Trust or which may affect the safety or wellbeing of patients.

3.5 The LLP shall comply with the Licence terms.

Trust Obligations

3.6 The Trust will provide the Support Services:

3.6.1 in accordance with the Specification and all provisions of this Contract;

3.6.2 using reasonable skill and care;

3.6.3 in accordance with all applicable Law and Good Industry Practice to the extent applicable to the Support Services; and

3.6.4 in accordance with the policies, rules, procedures and the quality standards of the Trust as amended from time to time.

3.7 Save as otherwise expressly agreed between the Parties, the Trust shall provide at its own expense all staff, equipment, tools, appliances, materials or items required for the provision of the Support Services.

3.8 The Trust shall ensure that the Trust Equipment complies with all applicable legislation and regulations.

- 3.9 The Trust will provide sufficient Trust Staff that, are suitably qualified and trained, to ensure that the Support Services are provided to the standards of care specified in this Contract and as may be required by any applicable regulations or legislation.
- 3.10 The Trust will provide the LLP with such information regarding operational and staffing matters as the LLP may reasonably require from time to time.

4. CHARGES

[DN: Suggested payment mechanism below for discussion. This is drafted on the basis that the Trust will invoice the LLP for the Support Services on a monthly basis.]

- 4.1 In consideration of the Trust's provision of the Support Services under this Contract and the rights to occupy as set out in the Licence, the LLP shall pay the Charges to the Trust in accordance with this clause 4 and Schedule 1.
- 4.2 The Trust will invoice the LLP in arrears on the [15th day] of each [Month] for the Support Services provided in the preceding [Month].
- 4.3 The LLP shall pay any invoiced amounts due to the Trust within 30 days of the date of the relevant invoice into such bank account as the Trust may nominate to the LLP from time to time in cleared funds without set off.
- 4.4 If the LLP disputes any invoice or other request for payment, the LLP shall immediately notify the Trust in writing. The Parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Trust shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the Parties have not resolved the dispute within 30 days of the LLP giving notice to the Trust, the dispute shall be resolved in accordance with the Dispute Resolution Procedure. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date.
- 4.5 If the LLP fails to pay any invoice (excluding any amount contested) submitted by the Trust under this Contract within 30 days of the date of such invoice, the Trust shall be entitled (without prejudice to any other right or remedy it may have) to charge interest on any amount outstanding at the rate of 2% above the Bank of England base rate from time to time, such interest being charged as a separate, continuing obligation and not merging with any judgment.
- 4.6 The Charges shall be reviewed and adjusted each year on 1 April in line with any relevant factors affecting the costs of providing the Support Services. Any disagreement between the Parties as to the annual adjustment of prices shall be resolved in accordance with the Dispute Resolution Procedure. Pending any resolution of any dispute the prices shall remain at their existing level until resolution of the dispute whereupon any payments already made to the Trust shall be retrospectively adjusted to reflect any new prices agreed for the relevant year.

5. CONFIDENTIALITY

- 5.1 Each of the Parties undertakes to keep secret and strictly confidential and shall not use, copy or disclose Confidential Information to any third party, without the other Party's prior written consent provided that the provisions of this clause 5 shall not apply to any Confidential Information which:
- 5.1.1 is in or enters the public domain other than by breach of the Contract; or
- 5.1.2 is obtained from a third party who is lawfully authorised to disclose such information; or

- 5.1.3 is authorised for release by the prior written consent of the disclosing Party.
- 5.2 Nothing in this clause 5 shall prevent either Party from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law.
- 5.3 The provisions of this clause 5 shall survive expiry or earlier termination of this Contract and shall remain binding for a period of three (3) years following the expiry or termination of this Contract.
- 5.4 Neither Party shall publicise the existence of this Contract or otherwise comment upon it without the prior authorisation of the other, such authorisation not to be unreasonably withheld, save that nothing in this clause shall preclude either Party from disclosing the existence or terms of this Contract or commenting upon it where it is under an obligation to do so.

6. DATA PROTECTION

[DN: This clause will need to be reviewed and updated once we understand the data sharing / data protection arrangements between the Parties. This is suggested drafting only which we expect will be required but this needs to be confirmed following Trust instructions. Also need to consider whether further agreement is required between the parties to cover data sharing /process arrangement once we understand the purpose of the sharing.]

- 6.1 Each Party:
- 6.1.1 shall comply with all Data Protection Legislation and shall not, by any act or omission, put the other Party in breach of any of the Data Protection Legislation; and
- 6.1.2 shall do and execute, or arrange to be done and executed, anything necessary or desirable to keep the other Party in compliance with any of the Data Protection Legislation in connection with this Contract.
- 6.2 The Parties acknowledge that no patient information shall be Processed in connection with this Contract. However, to the extent applicable, the Parties shall when Processing any Personal Data, comply with all applicable legislation, regulations and guidelines relating to the handling of patient information in the NHS or relating to the maintenance of confidentiality in respect thereof, including without limitation, the recommendations made by the National Data Guardian.
- 6.3 Each Party must complete and publish an annual information governance assessment and must demonstrate satisfactory compliance as defined in the NHS Information Governance Toolkit (or any successor framework), as applicable to the Support Services and each Party's organisation type.
- 6.4 The Parties acknowledge that:
- 6.4.1 the Trust is the Data Controller of its Personal Data; and
- 6.4.2 when Processing the LLP's Personal Data on the LLP's behalf in its provision of the Support Services, the Trust is a Data Processor.
- 6.5 Where, in connection with this Contract, the Trust in the course of delivering the Support Services, acts as a Data Processor on behalf of the LLP, the Trust must:

- 6.5.1 identify to the LLP an individual within the Trust authorised to respond to enquiries from the LLP in relation to any Personal Data held by the Trust acting on behalf of the LLP. The Trust shall deal with such enquiries promptly in relation to any Personal Data held by it on behalf of the LLP;
 - 6.5.2 process those Personal Data only on the written instructions of the LLP or as necessary to perform its obligations under this Contract;
 - 6.5.3 promptly provide to the LLP all information in its possession concerning any unauthorised or accidental disclosure or access made by an employee, director, agent, or any other identified or unidentified third party to any Personal Data held by it on behalf of the LLP;
 - 6.5.4 implement appropriate technical and organisational measures to protect those Personal Data against unauthorised, accidental or unlawful destruction, loss, alteration, disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing;
 - 6.5.5 process those Personal Data fairly and lawfully;
 - 6.5.6 make all reasonable efforts to ensure that those Personal Data are accurate and up to date at all times;
 - 6.5.7 not disclose those Personal Data to any person except as required or permitted by this Contract or with the LLP's written consent;
 - 6.5.8 not transfer the Personal Data outside the European Economic Area without the prior written consent of the LLP;
 - 6.5.9 provide full co-operation and assistance to the LLP in allowing Data Subjects to have access to those data and/or to ensure that those data are deleted or corrected if they are incorrect (or, if the LLP does not agree that they are incorrect, to have recorded the fact that the Data Subject considers the data to be incorrect); and
 - 6.5.10 not process those Personal Data except to the extent reasonably necessary to the performance of this Contract.
- 6.6 The LLP instructs the Trust, where the Trust processes Personal Data on behalf of the LLP, to take such steps in the processing of those personal data as:
- 6.6.1 are reasonably necessary for the performance of this Contract; and
 - 6.6.2 are consistent with the performance of this Contract and any applicable laws and regulations.
- 6.7 With effect from the GDPR Enforcement Date, the remainder of this clause 6 shall apply in addition to sub-clauses 6.1 to 6.6 inclusive. In the event of any conflict or inconsistency between the provisions of the above sub-clauses 6.1 to 6.6 inclusive and the remainder of clause 6 below, the latter shall prevail.
- 6.8 The Trust shall Process the LLP Personal Data only in accordance with documented instructions from the LLP, save where such instructions are unlawful, and or where such instructions would cause the Trust to breach its obligations under this Agreement, in which case the Trust shall be granted relief from liability hereunder.

- 6.9 The Trust shall ensure that all employees, agents, contractors and personnel who are involved in the Processing of the LLP Personal Data are under contractual or statutory obligations of confidentiality concerning the LLP Personal Data.
- 6.10 The Trust shall not provide any third party with access to the LLP Personal Data or sub contract any of its obligations under this Agreement that involve Processing the LLP Personal Data without the prior written approval of the LLP (such approval not to be unreasonably withheld or delayed).
- 6.11 The Trust shall comply with its obligations under the Data Protection Legislation, where applicable, including taking all measures required pursuant to Article 32 under the GDPR.
- 6.12 Taking into account the nature of the Processing, the Trust shall assist the LLP (at the LLP's cost) by implementing appropriate technical and organisational measures, insofar as this is possible, to enable the LLP to comply with its obligations under the Data Protection Legislation to respond to requests from Data Subjects.
- 6.13 The Trust shall assist the LLP (at the cost of the LLP) to comply with the following obligations under the GDPR, taking into account the nature of Processing and information available to the Trust:
- 6.13.1 Article 32 (Security of Processing);
 - 6.13.2 Article 33 (Notification of a Personal Data breach to the supervisory authority) and Article 34 (Communication of a Personal Data breach to the Data Subject) – although the Parties acknowledge that the Trust shall only be required to communicate with the LLP regarding such data breaches;
 - 6.13.3 Article 25 (Data protection impact assessment); and
 - 6.13.4 Article 36 (Prior consultation).
- 6.14 The Trust shall (at the LLP's cost) make available to the LLP, all information necessary to demonstrate compliance with the obligations imposed on the Trust under this clause and/or the Data Protection Legislation and (at the LLP's cost) allow for and contribute to audits, including inspections, conducted by the LLP or another auditor mandated by the LLP for the purposes of demonstrating such compliance.
- 6.15 The Trust shall immediately inform the LLP if in its opinion, an instruction received from the LLP infringes the Data Protection Legislation.
- 6.16 The Trust shall ensure that any sub-contract entered into by the Trust (where the LLP Personal Data is Processed by such sub-contractor) contains provisions which comply with Data Protection Legislation and in any event are no less onerous than those imposed under this clause 6.
- 6.17 Unless required by law, the Trust shall (at the LLP's cost), upon termination or expiry of the Agreement for whatever reason, at the option of the LLP, either securely delete or return all of the LLP Personal Data to the LLP.

Indemnity

- 6.18 The Parties shall indemnify each other against all costs, claims, damages, demands and expenses suffered or incurred by the innocent Party in connection with any claim by a third party that Personal Data has been obtained, used or transferred by the indemnifying Party (other than in accordance with the terms of this Contract) in breach of the Data Protection Legislation or the equivalent laws of the jurisdiction to which the Personal Data is transferred.

7. FREEDOM OF INFORMATION ACT

- 7.1 The Parties acknowledge that they are or may be subject to the Freedom of Information Act 2000 (FOIA) and may be required to disclose information about this Contract to ensure the compliance of the Parties with the FOIA. The Parties note and acknowledges the FOIA and both the respective Codes of Practice on the Discharge of Public Authorities' Functions and on the Management of Records (which are issued under section 45 and 46 of the FOIA respectively) as may be amended, updated or replaced from time to time. The Parties will act in accordance with the FOIA and these Codes of Practice (and any other applicable codes of practice or guidance notified to the Parties from time to time) to the extent that they apply to the Parties' performance under the Contract.
- 7.2 The Parties agrees that the decision on whether any exemption applies to a request for disclosure of recorded information is a decision solely for the Party receiving a request for disclosure and the Parties shall co-operate with each other and shall respond within five (5) Working Days of any request by the receiving Party for assistance in determining how to respond to a request for disclosure.

8. INTELLECTUAL PROPERTY RIGHTS

[DACB: please can you provide some details on what exactly the IPR consists of and what the LLP is intending to do with it]

- 8.1 In consideration of the LLP making full payment of the Charges under this Agreement, the Trust grants to the LLP an exclusive, worldwide, [irrevocable], royalty-free, non-assignable, [sub-licensable] licence in order to use, develop, modify [manufacture / commercialise / sell] the Trust's Background IPR in order to carry out its Functions for the Term of this Agreement. **[Assumed it will be an exclusive licence, unless the Trust may want to grant rights in its Background IPR to anyone else. Will the licence need to be irrevocable? Should the licence to the LLP be sub-licensable? What else will the LLP need to do with the IP, will it be commercialising, manufacturing (if dealing with patents) etc?]**
- 8.2 The LLP agrees to assign to the Trust all of its rights and interest in and to the Foreground IPR with full title guarantee free from encumbrances.
- 8.3 In consideration of the LLP making full payment of the Charges under this Agreement, the Trust grants to the LLP an exclusive, worldwide, [irrevocable], royalty-free, non-assignable licence to use, develop, modify, [manufacture/commercialise/sell] the Foreground IPR. **[Assumed it will be an exclusive licence – please confirm if otherwise.]**
- 8.4 The Trust shall procure the assignment of all third party rights in the Foreground IPR from the owners of such rights, to be assigned directly to the Trust. This assignment shall be substantially in the same form as set out in this clause 8.2. The Trust may use its discretion to negotiate such assignment with a third party on a case by case basis. **[will the 3rd party retain any rights in the IPR, eg acknowledgement?]**
- 8.5 If requested by the Trust, the LLP will take all steps necessary to assist the Trust in procuring the assignment of the Foreground IPR to the Trust in accordance with clause 8.4.
- 8.6 **[PLACE HOLDER – clause on profit sharing between the Trust and LLP to be considered. The Trust and the LLP may be part of the same group currently but this could change in the future so we should draft for how profits from the commercialisation are split between the two, or will they be all held by the Trust?].**

- 8.7 The LLP shall immediately give full particulars in writing to the Trust of any actual, threatened or suspected infringement of the Background IPR or Foreground IPR. The Trust shall not be under any obligation to take any legal or other action against any such third parties. [Should the Trust require it, the LLP shall take all steps necessary to protect and defend the infringement of any of the Background IPR and Foreground IPR.] **[PLACE HOLDER - clause for dealing with protection of the IPR. Will the LLP take all actions to defend infringement, or will the Trust want any rights to do so? Would the Trust want to direct the litigation and who should bear the costs of it / retain benefit of any settlement? May need separate schedule for dealing with the trade marks or patents, if either of these are relevant in the context of the IPR]**

9. LIABILITY AND INDEMNITY

- 9.1 Nothing in this Contract shall in any way exclude or limit either Party's liability to any third party for death or personal injury caused by that Party's negligence or for fraudulent misrepresentation.
- 9.2 This clause 9 (Liability and Indemnity) sets out the entire liability of the Parties in respect of:
- 9.2.1 any breach of this Contract; and
- 9.2.2 any representation, statement or tortious act or omission including negligence arising under or in connection with this Contract.
- 9.3 Subject to clause 9.1 neither Party shall be liable to the other for any loss of anticipated profits, loss of actual profits (direct or indirect), loss of anticipated savings, loss of business, or for any indirect, special or consequential loss or damage howsoever caused.
- 9.4 The express terms and conditions of this Contract shall apply in place of all warranties, conditions, terms, representations, statements, undertakings and obligations whether expressed or implied by statute, common law, custom, usage or otherwise, all of which are excluded to the fullest extent permitted by law.
- 9.5 Each Party shall be relieved from its obligations under this Contract to the extent that it is prevented from complying with any such obligations due to any acts, omissions or defaults of the other Party under this Contract. To qualify for such relief, the Party claiming such relief must notify the other Party promptly (and in any event within five (5) Working Days) in writing of the occurrence of such act, omission, or default of the other Party, together with the potential impact on the Party claiming the relief's obligations.

10. TUPE

[DN: Is it likely that there will be a Relevant Transfer of staff from the Trust to the LLP?

Corporate support staff, whose main role will continue to be working for the Trust, can be made available to the LLP on a service provision basis, which will not affect their employment status with the Trust (although consultation and agreement might be necessary if their duties change substantially). Generally the commercial basis for this arrangement would be an annual charge for an agreed notional number of hours. If this is accepted as a workable arrangement, no further formalities will be required by way of formal secondment or transfer of staff. TUPE will not apply.

Any staff who are:

- **currently employed by the Trust and are**

- assigned to an 'organised grouping' (broadly, a team) which carries out the core activities that will be carried out by the LLP

would ordinarily transfer to the LLP under TUPE.

In principle it is possible (with the consent of the staff) for the Trust to second them to the LLP as an alternative to a TUPE transfer. However secondment is generally only appropriate for a relatively short-term projects (a few months at most).

If the intention is that the LLP will be permanently carrying out the activities then TUPE is likely to apply. If so, the agreement will need to be amended so that it contains the operative transfer clauses, indemnities and a schedule of the transferring staff.]

11. SERVICE CHANGE PROCEDURE

- 11.1 Either Party may request or propose a change to the Support Services (a "Service Change") by serving on the other Party a request (a "Change Request") setting out the proposed change to the Support Services.
- 11.2 As soon as practicable and in any event within twenty (20) Working Days of receipt or issue of the Change Request (as appropriate), the LLP shall deliver to the Trust its written response or proposal in relation to the Change Request (the "Written Response") setting out (as applicable) the LLP's opinion of the proposed Service Change in relation to:
- 11.2.1 any impact on the provision of the Support Services;
 - 11.2.2 any amendment required to this Contract, including the Specification, as a result of the proposed Service Change;
 - 11.2.3 the costs, if any, of the change including any proposed change to the Charges that results from the proposed Service Change (taking account of any previously planned costs that will no longer be incurred because of the proposed Service Change);
 - 11.2.4 a timetable for implementation of the Service Change, together with any proposals for acceptance of the Service Change; and
 - 11.2.5 a schedule of payments if appropriate.
- 11.3 As soon as practicable after the Trust receive the Written Response and in any event within a maximum of fourteen (14) Working Days after receipt, the Parties shall discuss and seek to agree the issues set out in the Written Response and if the Parties are unable to agree on the content of the Written Response such dispute shall be determined in accordance with the Dispute Resolution Procedure.
- 11.4 As soon as practicable after the contents of the Written Response have been agreed or otherwise determined pursuant to the Dispute Resolution Procedure and in any event within a maximum of ten (10) Working Days after such agreement or determination, the Trust shall:
- 11.4.1 confirm acceptance of the Written Response (as modified); or
 - 11.4.2 withdraw or reject the Service Change.
- 11.5 If the Trust accepts the Written Response (amended as agreed or determined), then implementation of the Service Change shall commence within the timescale agreed between the Parties at the time of such acceptance and the Parties shall enter into

any documents to amend this Contract which are necessary to give effect to the Service Change.

- 11.6 Where any Party reasonably maintains that a Service Change is urgent (an "Urgent Service Change"), the time periods as set out in clauses 11.2, 11.3 and 11.4 shall become twenty four (24) hours or such shorter period as the Parties agree is reasonable given the particular circumstances giving rise to the request for an Urgent Service Change.
- 11.7 Unless the Parties otherwise agree in writing, there shall be no presumption that the obligations undertaken by any Party in connection with the Contract are in any way changed until the amendment to the Contract has been effected in accordance with the Service Change procedure set out in this clause 11.
- 11.8 No amendments to the Contract shall be valid unless they have been agreed in writing by the Authorised Officers.

12. REVIEW

- 12.1 At not less than Monthly intervals during the Term and more frequently if requested in writing by any Party, the Parties shall meet (each such meeting being a "**Review**") to discuss and review the Trust's provision of the Support Services and the performance of the respective duties and obligations of the Parties under the Contract.
- 12.2 At each Review, the Parties will agree any necessary action to address any areas of dissatisfaction. The Trust will not unreasonably obstruct or withhold its agreement to any such necessary action.
- 12.3 The Reviews shall be attended by the Authorised Officers and any other duly authorised and sufficiently senior employees of both the Trust and the LLP together with any other relevant attendees. The Parties shall agree a standing agenda for the Reviews.

13. VARIATIONS TO CONTRACT

Subject to clause 11, the terms of this Contract shall not be capable of being varied except by mutual agreement in writing by both Parties.

14. FORCE MAJEURE

- 14.1 The obligations of either Party under this Contract shall be suspended during the period and to the extent that that Party is prevented or hindered from complying with them by a Force Majeure Event.
- 14.2 In the event of that Party being so hindered or prevented, the Affected Party shall give notice of suspension as soon as reasonably possible to the other Party stating the date and extent of the suspension and its cause.
- 14.3 Where a Party is (or claims to be) affected by a Force Majeure Event. It shall take all reasonable steps to:
 - 14.3.1 mitigate the consequences of such Force Majeure Event upon the performance of its obligations under this Contract; and
 - 14.3.2 resume performance of its obligations affected by the Force Majeure Event as soon as practicable.

Modifications

- 14.4 The Parties shall endeavour to agree any modifications to this Contract which may be equitable having regard to the nature of the Force Majeure Event for the period of the Force Majeure Event. Where the Parties fail to agree any such modifications the Parties shall refer the issues for determination to the Dispute Resolution Procedure.

Termination due to Force Majeure

- 14.5 If the effects of the relevant Force Majeure Event continue to prevent either Party from performing any material obligation under this Contract after one (1) Month from the date on which the Affected Party served notice on the other Party in accordance with clause 14.2, then:

14.5.1 if the Parties have failed to reach agreement on any modification pursuant to clause 14.4; and

14.5.2 the effects of the relevant Force Majeure Event continue to prevent either Party from performing any material obligation under this Contract,

either Party may terminate this Contract by written notice to the other Party having immediate effect.

15. TERMINATION

- 15.1 Either Party may terminate this Contract in relation to an individual Support Service or the Contract as a whole by providing at least six (6) Months' prior notice in writing to the other Party, such notice not to be given within the first Year of the Contract.

- 15.2 The LLP may terminate this Contract in whole or in relation to an individual Support Service immediately by serving written notice on the Trust in any of the following circumstances:

15.2.1 the Trust committing a material breach of this Contract which, where capable of remedy, is not remedied within 30 days of the LLP serving notice of such breach on the Trust or such longer period as is agreed between the Parties; or

15.2.2 if in relation to the Contract the Trust or any person employed by it or acting on its behalf shall have committed any offence under the Bribery Act 2010, or shall have given any fee or reward to any officer of the LLP which shall have been exacted or accepted by such officer under colour of his office or employment and is otherwise than such officer's proper remuneration.

- 15.3 The Trust may terminate this Contract in whole or in relation to any individual Service immediately by serving written notice on the LLP in any of the following circumstances:

15.3.1 the LLP committing a material breach of this Contract which, where capable of remedy, is not remedied within 30 days of the Trust serving notice of such breach on the Trust or such longer period as is agreed between the Parties;

15.3.2 if in relation to the Contract the LLP or any person employed by it or acting on its behalf shall have committed any offence under the Bribery Act 2010, or shall have given any fee or reward to any officer of the Trust which shall have been exacted or accepted by such officer under colour of his office or employment and is otherwise than such officer's proper remuneration;

- 15.3.3 if the LLP has failed to make payment to the Trust of any undisputed invoice (or part thereof) within the time period for payment or has failed to make payment to the Trust of any other undisputed amount due or payable by the LLP to the Trust in accordance with the provisions of this Contract (by means of reimbursement, indemnity or otherwise), and the LLP fails to remedy the non payment in full within twenty (20) Working Days receipt of a notice from the Trust requiring the LLP to do so;
 - 15.3.4 the LLP suffers an Insolvency Event; or
 - 15.3.5 the Trust no longer has the capacity to provide the Support Services (or any of them), or the continued provision of the Support Services (or any of them) will detrimentally impact on the Trust's ability to fulfil its core function which is to provide NHS Treatment. Should this sub-clause apply, the Trust will provide as much notice that is reasonably practicable in the circumstances.
- 15.4 If the Independent Regulator ("Monitor") exercises any of its powers against the Trust pursuant to Section 65D of the National Health Service Act 2006 or gives notice to the Trust as a preliminary step to exercising any such powers that it considers the Trust to be in breach of its Foundation Trust Authorisation then either Party shall be entitled by notice in writing to the other to terminate this Contract with immediate effect.
- 15.5 If the Trust becomes aware of any investigation by Monitor which may result in Monitor taking preliminary steps or exercising its powers against the Trust as described in clause 15.4 above, the Trust shall notify the LLP and the Parties shall co-operate in good faith to avoid, or where that is not possible, to minimise and mitigate the effects of any termination of this Contract for the benefit of both Parties.

16. ARRANGEMENTS ON TERMINATION

- 16.1 Termination or expiry of an individual Support Service or this Contract as a whole for any reason shall be without prejudice to any right or remedy of either Party which may have accrued prior to such termination.
- 16.2 Upon expiry or earlier termination of an individual support service or this Contract as a whole:
- 16.2.1 the Trust shall continue to be entitled to receive and the LLP shall pay to the Trust the Charges for any Support Services provided by the Trust up to and including the date of termination or expiry;
 - 16.2.2 neither Party shall be entitled to use the jointly developed IPR without the other Party's consent, such consent not to be unreasonably withheld or delayed; and
 - 16.2.3 the Trust shall co-operate fully with the LLP in achieving an orderly and efficient handover to such Replacement Contractor as the LLP may nominate for the provision of the Support Services. This co-operation shall extend to reasonable access to all documents, reports, summaries and any other information necessary to achieve an effective transition without disruption to routine operational requirements for the Support Services.
- 16.3 Any provision of this Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Contract shall remain in full force and effect.

17. ASSIGNMENT AND SUB-CONTRACTING

- 17.1 Subject to clause 17.2 below neither Party may assign or sub-contract its rights or obligations under this Contract without the consent in writing of the other such consent not to be unreasonably withheld or delayed.
- 17.2 The Trust may assign all or any part of its rights and obligations to any other health service body (as that phrase is defined in Section 9 of the National Health Service Act 2006) or any NHS Foundation Trust in connection with any re-organisation of health services.

18. NOTICES

- 18.1 Any notice which is given under or in connection with this Contract shall be given in writing and shall be regarded as properly served:-
- 18.1.1 in the case of a notice to the LLP if it is delivered by hand or by post to the LLP Authorised Officer at the address at the front of this Contract and in the case of a notice to the Trust if it is delivered by hand or by post to the Trust Authorised Officer at the address at the front of this Contract provided that if the day of service is not a Working Day or service takes place after 5.00 p.m. on a Working Day then the notice shall be deemed to be served on the following Working Day.
- 18.2 The Parties shall be at liberty to vary the nominated address for the purposes of clause 18.1 and shall give notice of such change to the other Party. Pending receipt of such notice of alteration, service on the existing recipient or at the existing address will be good service.

19. DISPUTE RESOLUTION PROCEDURE

- 19.1 Each Party shall act in good faith in resolving any disputes or disagreements between the Parties in relation to this Contract.
- 19.2 If any dispute cannot be resolved by the Authorised Officers then either Party, by notice in writing to the other, may refer the dispute to an Executive Director at each Party who shall co-operate in good faith to resolve the dispute as amicably as possible within fourteen (14) days of service of such notice.
- 19.3 If the Executive Directors fail to resolve the dispute in accordance with clause 19.3, then the Parties shall, on the written request of either Party, enter into an alternative Dispute Resolution Procedure with the assistance of a mediator agreed by the Parties or, in default of such agreement within seven (7) days of receipt of such request, appointed, at the request of either Party, by the Centre for Effective Dispute Resolution ("**CEDR**") or such other similar body as is agreed.
- 19.4 Except for any Party's right to seek interlocutory relief in the courts, neither Party may commence other legal proceedings under the jurisdiction of the courts or any other form of arbitration until twenty one (21) days after the Parties have failed to reach a binding settlement by mediation (at which point the Dispute Resolution Procedure shall be deemed to be exhausted).
- 19.5 The Parties shall bear their own legal costs of this Dispute Resolution Procedure, but the costs and expenses of mediation shall be borne by the Parties equally.

20. GENERAL

- 20.1 If any provision of the Contract is or becomes illegal, void or invalid this shall not affect the legality and validity of its other provisions and the Parties agree that they shall immediately commence in good faith negotiations to vary the terms of this Contract in order to remedy such invalidity, unenforceability or illegality.

- 20.2 No failure or delay by a Party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 20.3 It is not intended that any third party should be entitled to enforce any of the provisions of this Contract and in particular no third party who would not have been so entitled except under the provisions of the Contracts (Rights of Third Parties) Act 1999.
- 20.4 This Contract supersedes all previous understandings and negotiations in respect of the Parties' obligations as provided in this Contract. The Parties acknowledge that in entering into the Contract neither of the Parties has relied on or shall have any remedy for any representation or statement which is not expressly included in this Contract. All representations (save in respect of fraudulent misrepresentation), warranties, conditions and other terms whether implied by statute or otherwise which are not expressly included in this Contract and which might otherwise relate to this Contract are hereby excluded.
- 20.5 Nothing in this Contract shall be construed as establishing or implying a partnership or joint venture between the Parties or shall be deemed to constitute either Party as the agent of the other or allow either Party to hold itself out as acting on behalf of the other.

21. GOVERNING LAW AND JURISDICTION

- 21.1 This Contract shall be governed by and construed in accordance with English Law and subject to clause 19 the Parties hereby submit to the exclusive jurisdiction of the English Courts.

SIGNATURE PAGE

IN WITNESS whereof the Parties hereto have executed this Contract by their duly appointed representatives the day and year first before written.

Signed for and on behalf of

SOUTH TEES HOSPITALS NHS FOUNDATION TRUST

.....

By

Name.....

Title.....

Date.....

Signed for and on behalf of

SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND INNOVATION LLP

.....

By

Name.....

Title.....

Date.....

SCHEDULE 1

SPECIFICATION AND CHARGES

[Service specifications to be added for each Support Service and Charges payable by the LLP to the Trust for each Support Services. Trust needs to clearly set each service that it provides, the standards with which it will comply and the price that the LLP will pay. Suggest that each separate service is in a separate part, e.g. Part A: Human Resources; Part B: IT. As we understand it, the FT employees in each Support Service will work for the FT and the LLP and will not be dedicated to either; e.g. there will not be a member of the payroll team that exclusively supports the LLP. The FT may want to say how many hours the employees in each Support Service will spend doing LLP work each week or you may want to stay silent.]

SCHEDULE 2

LICENCE TO OCCUPY

[On the assumption that both the LLP and the Trust jointly occupy the building(s) and that there is no separate distinct area within the building(s) which the LLP occupies (and has exclusive occupation of) the correct way to document the arrangement by which the LLP occupies the building is by the granting of a Licence to Occupy from the Trust, which grants the LLP a right to occupy the building for purposes of carrying out the relevant services pursuant to the services agreement (if however this is not the case, and the LLP occupy a separate distinct part of the building exclusively, the correct way to document the arrangement would be by the granting of a lease from the Trust to the LLP of the relevant space).

We have presumed for the purposes of this note that both the Trust and the LLP are to occupy the building(s) jointly and that the LLP do not occupy any separate distinct area.

A separate licence to occupy schedule can therefore be attached to this Agreement setting out the terms of the licence to occupy the buildings(s), but in order to do this further action/information will be needed, including:

- we, or the Trust, will need to check the legal title to each building, particularly any buildings which the Trust occupy under a lease, to check whether the Trust have the ability to grant the licence and whether any consents will need to be obtained from any superior landlords;
- details of the building or buildings to be occupied will need to be provided, to include red-line plans identifying the buildings occupied;
- confirmation of any licence fee to be paid by the LLP or any other payments to be made by the LLP (such as confirmation as to who is to be responsible for the payment of utilities and other outgoings etc);
- details of any particular hours of the day, or days of the week, when the LLP will be using the buildings;
- details of any termination rights to be included in the licence (for example, are the Trust or the LLP to have any ability to terminate the licence, or is the licence merely to terminate on any termination or expiry of the services agreement)'
- details of any particular site specific rights to be granted to the LLP (such as car parking rights)]

1. RESEARCH AND DEVELOPMENT – FINANCIAL GOVERNANCE PRINCIPLES

1.1.1. The principles and rules contained in these Standing Financial Instructions are of direct relevance to all those who host, conduct, fund or participate in research within the Trust. They should act as a single reference point informing all parties involved of key rules and responsibilities thereby enabling research to be undertaken and administered in an efficient manner, avoiding possible delays and problems and in turn minimising risk to the Trust and to individuals alike.

1.1.2. Financial probity and compliance with the law and rules laid down by H.M. Treasury for the use of public funds are as applicable to R&D activities as to any other activities being undertaken within the Trust. The governance arrangements for R&D can be found in the Department of Health's "Research Governance Framework for Health and Social Care" and in the Trust's own research governance policy. The main policy driver being that:

"Proper governance of research is essential to ensure that the public can have confidence in and benefit from, quality research in health and social care. The public has a right to expect high scientific, ethical and financial standards, transparent decision-making processes, clear allocation of responsibilities and robust monitoring arrangements."

"The need to act as sound custodians of public money for public good" is also stated as one of the key goals in the "Best Research for Best Health" document.

1.1.3. There are two types of R&D activity as follows; both of these are covered by this paper:

- **"Commercial R&D"** - where R&D is primarily conducted for commercial purposes and funded by an external company, for example a drug trial prior to licensing.
- **"Non – Commercial R&D"** – where R&D is funded by a charitable organisations, a Research Council, the Department of Health or other government agencies for example.

1.2. General responsibilities

1.2.1. Responsibilities of the key parties involved in R&D regarding financial management are clearly stated on the R&D website [Roles & Responsibilities in R&D](#). It is the responsibility of all parties to ensure these are fulfilled.

1.2.2. All parties involved in the respective R&D activity must ensure that they understand and adhere to the relevant Trust policies and procedures, accessing the key documents via the appropriate sources on the intranet when specific guidance is needed and gaining additional advice/support as appropriate.

1.2.3. The Trust policies and procedures which will commonly apply and which need to be followed include:

- All other relevant Standing Orders and Standing Financial Instructions
- Procurement policies and procedures
- Human Resource policies and procedures
- Accounting and budgetary control policies and procedures
- Payroll policies and procedures including those relating to taxation.

1.2.4. With regards to commercial research, all dealings with industry must be authorised by the Trust's R&D Office. Under no circumstances should an individual employee enter into a contract with industry in a personal capacity to undertake research involving NHS patients. Only protocols registered with the R&D Office will be covered by the NHS indemnity arrangements. The Trust will not accept liability for any activity that has not been properly registered and managerially approved.

1.2.5. Researchers, supported by finance managers, should ensure that any commercial partner is financially stable, (particularly if the company is small or new) and thus in a position to fulfil their financial obligations; all contracts should include termination clauses.

1.3. Assessing the financial implications of proposed R&D activities:

1.3.1. Trust employees must follow the agreed current Trust procedures for the financial management of all applications for research funding. No application should be submitted without having been properly

costed and being subject to these processes. (Refer to “Procedure Document for Researchers and Finance Staff covering the Financial Management of Research and Development Applications”).

- 1.3.2. All parties participating in a research project must ensure that they clearly and comprehensively assess the likely resources required, considering not only their own service area but also any other area in which the proposed activity will have an impact.
- 1.3.3. These principles and rules apply not only to R&D activities which will secure external funding but also to any such activities which are solely in-house.
- 1.3.4. With regards to commercially funded R&D, the full cost of the activity must be recovered for ‘contract research’ (research in which the intellectual property rests entirely with the company). The NHS must not seek to recover from industry the costs of standard treatment that would normally have been incurred in treating patients in the NHS. For commercial clinical trials the sponsoring company is expected to supply free of charge the medicine that is the subject of the trial. For commercially funded studies which are ‘collaborative research’ (intellectual property is shared and publication rights given to the investigators), the level of cost recovery from the commercial sponsor can be reduced in line with the possible commercial / academic benefits to the Trust provided that arrangements have been made to recover this shortfall from other sources.
- 1.3.5. When negotiating R&D proposals with a partner organisation, Trust representatives must ensure that the Trust’s financial requirements are assessed in line with the financial management procedures mentioned above and not only assessed by the partner organisation.
- 1.3.6. All proposed R&D applications must be approved in line with the normal management arrangements within the Trust, details of which are given on the Trust’s R&D website.

1.4. Use of funding gained through R&D activities

- 1.4.1. Any funding which is received through R&D activity is covered by the Trust’s Standing Financial Instructions and Standing Orders, as is the case for all other funding sources within the Trust.
 - A business/spending plan is required for all funds prior to committing spend each financial year. Due consideration of strategic collaboration cross funds (where funding rules permit) should support any plans.
 - A separate cost centre is set up for each study once R&D approval is given so both commercial and non-commercial accounts have unique accounts for the duration of the study.
 - Once a study is completed the account is closed down.
 - For commercial studies any residual balance on an account is transferred to what we refer to as a holding account.
 - In the past these were quite often in individual consultants names but they are now to be grouped (where applicable) into relevant specialties in order to use more strategically. The guidelines for use of the accounts is that all expenditure above £1k from these holding accounts needs the Clinical Director of R&D to authorise.

CORPORATE GOVERNANCE POLICY

Document No: CG01
*All Sites

STANDING ORDERS OF THE BOARD OF DIRECTORS

TITLE	Standing Orders of the Board of Directors
Version:	1
Final Approval by: Board of Directors Date:	04/07/2017
Author/lead responsible for policy:	Company Secretary and Chief Executive
Date issued:	July 2017
Review date:	March 2019
Target audience:	Board Members Senior Staff
Amendments and Additions	
Replaces/supersedes:	Not applicable
Associated Policies:	Standing Financial Instructions

Issued by:

Chief Executive

STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE BOARD OF DIRECTORS OF SOUTH TEES INSTITUTE OF LEARNING, RESEARCH AND INNOVATION

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1. INTRODUCTION

The South Tees Institute of Learning, Research and Innovation (STLRI) was incorporated on 9th May 2016 for the purposes of creating a company structure through which South Tees FT could expand, develop and grow its research and innovation capacity on a commercial footing, thereby ensuring transparency in the use of funds and allowing, where appropriate, surpluses to be ring fenced for reinvestment in new programmes of work and to support new and innovative technologies aligned to the emerging business strategy.

The principal place of business of the Company is:

The James Cook University Hospital
Marton Road
Middlesbrough
TS4 3BW

The business of STLRI is to be managed by the Board of Directors, who shall exercise all the powers of the subject to adherence to all governance documents and the Partnership Deed.

- The composition of the Board of Directors
- Eligibility and disqualification of Directors
- Meetings of the Board of Directors
- Registers
- Public documents

These Standing Orders add clarity and detail where appropriate. Nothing in these Standing Orders shall override the LLP's Partnership Deed.

The LLP's Standing Orders and wider governance arrangements are further supported by various policies and procedures and for financial matters, by the Standing Financial Instructions and associated finance procedures. Certain powers are reserved to be exercised by the Board only, and these are covered by the Decisions Reserved for the Board of Directors and Scheme of Delegation. All other matters are delegated via the Chief Executive and Executive Directors to other Directors or Officers throughout the Trust, in accordance with the detailed Scheme of Delegation

The Board of Directors will conduct its business in as open a way as possible and will:

- a) Observe the Nolan principles of Public Life of selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
- b) At all times seek to comply with the Partnership Deed; and
- c) At all times seek to comply with the Combined Code on Corporate Governance. Everything done by the LLP should be able to stand the test of scrutiny, public judgment on propriety, and professional codes of conduct.

These Standing Orders (SOs) are for the regulation of the Board of Directors' proceedings and business.

2. PURPOSE

- 2.1 Save as permitted by law, at any meeting the Board shall be the final authority on the interpretation of Standing Orders on which they should be advised by the Chief Executive and Company Secretary.
- 2.2 Any expression to which a meaning is given in the Health Service Acts or in the Regulations or Orders made under the Acts shall have the same meaning in this interpretation and in addition:

3. DEFINITIONS

The 2003 Act means Health and Social Care (Community Health and Standards) Act 2003 which was amended by the 2006 Act.

The 2006 Act means the National Health Service Act 2006 as may be amended or replaced from time to time.

The 2012 Act means the Health and Social Care Act 2012 which amends the 2006 Act and may be amended or replaced from time to time.

“Accountable officer” means the officer responsible and accountable for funds entrusted to the Trust. They shall be responsible for ensuring the proper stewardship of public funds and assets. In accordance with the 2006 Act, this shall be the Chief Executive.

“Board of Directors” means the Chief Executive and Board of Directors appointed in accordance with the Directorships held.

“Budgets” means a resource, expressed in financial terms, proposed by the Board of Directors for the purpose of carrying out, for a specific period, any or all of the functions of the .

“Chairman” is the person appointed to Chair meetings of the Board of and to lead the Board of Directors to ensure it successfully discharges its overall responsibility for the Trust as a whole.

“Chief Executive” mean the Accountable Officer of the.

“Commissioning” means the process for determining the need for and for obtaining the supply of healthcare and related services by the LLP within available resources

“Company Secretary” means a person who is appointed to act independently of the Board to provide advice on corporate governance issues to the Board and Executive Director of Finance who is the Chief Finance Officer of the .

“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.

“Licence” means the NHS Provider Licence issued by Monitor the Sector Regulator.

“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.

“Officer” means an employee of the LLP or any other person who exercised functions for the purposes of the

SOs means Standing Orders

SFIs means Standing Financial Instructions

TRUST means South Tees Hospitals NHS Foundation Trust.

4. ROLES AND RESPONSIBILITIES (DUTIES)

Role	Responsibilities
Chairman	Chairman of the Board of Directors
Chief Executive	The Chief Executive is responsible for ensuring all existing Directors and officers, and all new appointees are notified of, and understand their responsibility within the Standing Orders.
Board of Directors	The Board of Directors shall function as a corporate Decision making body.

5. THE BOARD OF DIRECTORS – ITS COMPOSITION, APPOINTMENTS AND INDEMNITY ARRANGEMENTS

5.1 All business shall be conducted in the name of the LLP.

5.2 All the powers of the LLP shall be exercised by the Board of Directors on its behalf.

5.3 The Board of Directors has resolved that certain powers and decisions may only be exercised or made by the Board. These powers and decisions are set out in “Decisions Reserved for the Board of Directors and Scheme of Delegation” and have effect as if incorporated into the Standing Orders. The Board of Directors must adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals.

5.4 Composition of the Board of Directors

5.4.1 The composition of the Board of Directors as a minimum will be:

- Representation from both partners i.e. the Trust and South Tees Healthcare Management Ltd.
- A minimum of four Directors including the Chief Executive Officer of the LLP

The minimum requirement for the Directors is:

- One of the four Directors shall be the Chief Executive.
- The Chief Executive shall be the Accountable Officer.
- One of the Directors shall be the Company Secretary.
- One of the Directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984)
- The Company Secretary to the Board of Directors will be in attendance at all Board meetings.

5.4.2 The number of Directors may be increased, with the approval of the Board.

5.5 Terms of Office of Members of the Board

5.5.1 The LLP will maintain the minimum level of Board membership as set out in section 5.5 of this document. Terms of office are continuous with no restriction on time limits imposed.

5.5.2 The Company Secretary will review Board membership periodically at least once per year with the Chief Executive and Board.

5.6 Disqualification and removal of Directors:

Over and above the legal minimum, a person may not become or continue as a Director if they:

- Are the subject of a disqualification order made under the Company Directors Disqualification Act 1986
- Have had their name removed by a direction under S.46 of the 1977 Act from any list prepared under Part II of that Act, and have not subsequently had their name included in such a list;
- Have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body.
- Have had a tenure of office as a Chairman or as a member or Director of a health service body terminated on the grounds that their appointment is not in the interests of the health service, for non-attendance at meetings or for non-disclosure of a pecuniary interest;
- Have refused without reasonable cause to fulfill any training requirement established by the Board of Directors;
- Have refused to sign and deliver a statement in the prescribed format confirming acceptance of a Code of Conduct for Directors.
- Has been made bankrupt or has their estate sequestrated and in either case has not been discharged. Is a person in relation to whom moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986)
- They have made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it
- Has within the preceding five years been convicted in the British Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them.
- Has their name placed on the Safeguarding Register
- In the case of a Non-executive Director, he/she has refused without reasonable cause, to fulfill any training requirement established by the Board of Directors.
- Has failed without reasonable cause, to sign and deliver to the Company Secretary a statement in the form required by the Board of Directors confirming acceptance of the Code of Conduct for Directors, or
- A person who does not satisfy all of the requirements of Regulation 5(3) of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014/2936 (as amended and updated from time to time) (Fit and Proper Person Test).

6. MEETINGS OF THE BOARD OF DIRECTORS

6.1 Confidentiality

6.1.1 Directors and Officers and 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 Board of Directors meeting, without the express permission of the Board of Directors. This prohibition shall apply equally to the content of any discussion during the Board of Directors' meeting which may take place on such reports or papers.

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

6.2.1 The Chairman of the Trust may call a meeting of the Board of Directors at any time. If the Chairman refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of Directors, has been presented to him/her, or if, without so refusing, the Chairman does not call a meeting within seven days after such requisition has been presented to him/her at the Trust's Headquarters, such one third or more Directors may forthwith call a meeting.

6.3 Notice of Meetings - Before each meeting of the Board of Directors, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chairman or by an officer authorised by the Chairman to sign on his/her behalf shall be delivered to every Director, or sent by post to the usual place of residence of such Director, so as to be available to him/her at least five clear days before the meeting.

6.3.1 Want of service of the notice on any Director shall not affect the validity of a meeting.

6.3.2 In the case of a meeting called by Directors in default of the Chairman, the notice shall be signed by those Directors and no business shall be transacted at the meeting other than that specified in the notice or emergency motions allowed under these Standing Orders. Failure to serve such a notice on more than three Directors will invalidate the meeting. A notice shall be presumed to have been served one day after posting.

6.3.3 Agendas will wherever possible be sent to Directors at least five clear days before the meeting and supporting papers, whenever possible.

6.4 Notice of Extraordinary Meetings – At the request of the Chairman or the Chief Executive, the Company Secretary shall send a written notice to all Board Members as soon as possible after receipt of such a request. The Company Secretary shall give Board Members as much notice as is possible in light of the urgency of the request. If the Company Secretary fails to call such a meeting, then the Chairman or Chief Executive shall call such meeting.

6.4.1 Before each meeting of the Board of Directors, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chairman or by the Company Secretary shall be delivered to every member of the Board, or sent electronically or by post to the agreed address of such directors, or is to be available at least seven (7) clear days before the meeting. A postal notice shall be presumed to have been served at the time at which notice would be delivered in the ordinary course of the post.

6.4.2 Lack of service of the notice on any director shall not affect the validity of the meeting.

6.4.3 Agendas will be sent to the Board of Directors no less than seven (7) days before the meeting.

6.5 **Setting the Agenda**

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

A Director who requires an item to be included on the agenda should advise the Company Secretary prior to the agenda being agreed with the Chairman and no less than ten (10) days before the meeting.

6.6 **Chairman of Meeting** - At any meeting of the Board of Directors, the Chairman of the Board of Directors, if present, shall preside. If the Chairman is absent from the meeting the Chief Executive shall preside. If the Chairman and Chief Executive are absent such Director as the Directors present decide shall preside.

6.6.1 If the Chairman is absent temporarily on the grounds of a declared conflict of interest the Chief Executive shall preside. If the Chairman and Chief Executive are absent, or are disqualified from participating, such Directors present shall choose shall preside

6.6.2 The Directors (excluding the Chairman and the other Non-executive Directors) shall elect one of their numbers to preside during that period and that person shall exercise all the rights and obligations of the Chairman including the right to exercise a second or casting vote where the number of votes for and against a motion is equal.

6.7 **Notices of Motion** - A Director desiring to move or amend a motion shall send a written notice thereof at least 10 clear days before the meeting to the Chairman, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible under the appropriate regulations. This paragraph shall not prevent any motion being moved during the meeting, without notice on any business mentioned on the agenda, subject to Standing Order 6.5.

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

6.9 **Motion to Rescind a Resolution** - Notice of motion to amend or rescind any resolution (or the general substance of any resolution) which has been passed within the preceding 6 calendar months shall bear the signature of the Director who gives it and also the signature of 2 other Directors. When any such motion has been disposed of by the Board of Directors, it shall not be competent for any Director other than the Chairman to propose a motion to the same effect within 6 months; however the Chairman may do so if he/she considers it appropriate.

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

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

a) An amendment to the motion.

- b) The adjournment of the discussion or the meeting.
- c) That the meeting proceed to the next business. (*)
- d) The appointment of an ad hoc committee to deal with a specific item of business.
- e) That the motion be now put. (*)
- f) A motion resolving to exclude the public (including the press).

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

6.11 **Chairman's Ruling** - Statements of Directors made at meetings of the Board of Directors shall be relevant to the matter under discussion at the material time and the decision of the Chairman of the meeting on questions of order, relevancy, regularity and any other matters shall be final. In this interpretation he/she shall be advised by the Company Secretary on Standing Orders and Standing Financial instructions.

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

6.12.1 No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.

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

6.13 **Suspension of Standing Orders** - Except where this would contravene any provision of the constitution or any direction made by the Independent Regulator of NHS Foundation Trusts, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Directors are present, including one executive director and one non-executive director, and that a majority of those present vote in favour of suspension.

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

6.13.2 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Directors.

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

6.13.4 The Audit Committee shall review every decision to suspend Standing Orders.

6.14 **Variation and Amendment of Standing Orders** - These Standing Orders shall be amended only if:

- a) a notice of motion under Standing Order 6.10 has been given; and
- b) at least two-thirds of the Directors are present; and

- 6.15 **Record of Attendance** - The names of the Directors present at the meeting shall be recorded in the minutes.
- 6.16 **Quorum** - No business shall be transacted at a meeting of the Board of Directors unless at least 3 of the whole number of the Directors appointed are present.
- 6.16.1 If the Chairman or a Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest they 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.
- 6.17 **Adjournment of Meetings** - The Board of Directors may, by resolution, adjourn any meeting to some other specified date, place and time and such adjourned meeting shall be deemed a continuation of the original meeting. No business shall be transacted at any adjourned meeting which was not included in the agenda of the meeting of which it is an adjournment.
- 6.17.1 When any meeting is adjourned to another day, other than the following day, notice of the adjourned meeting shall be sent to each Director specifying the business to be transacted.
- 6.18 **Observers at Board of Directors meetings** - The Board of Directors will decide what arrangements and terms and conditions it feels are appropriate to offer in extending an invitation to observers to attend and address any of the Board of Directors meetings and may change, alter or vary these terms and conditions as it deems fit.

7. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

- 7.1 The Board may make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee or sub-committee, appointed by virtue of SO 8.1 or 8.2 below or by a Director of the Trust in each case subject to such restrictions and conditions as the Board thinks fit.
- 7.2 **Emergency Powers** – The powers which the Board has retained to itself within these Standing Orders may in emergency be exercised jointly by the Chief Executive and the Chairman after having consulted the Company Secretary. The exercise of such powers by the Chief Executive and the Chairman shall be reported to the next formal meeting of the Board for ratification.
- 7.3 **Delegation to Officers** – Those functions of the Trust which have not been retained as reserved to the Board may be exercised on behalf of the Board by the Chief Executive. The Chief Executive shall determine which functions he/she will perform personally and shall nominate Directors only to undertake the remaining functions for which they will still retain accountability to the Board.
- 7.3.1 The Chief Executive shall prepare a Scheme of Decisions Reserved to the Board and Scheme of Delegation, identifying their proposals which shall be considered and approved by the Board, subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendment to the Scheme of Delegation which shall be considered and approved by the Board as indicated above in consultation with the Company Secretary.

7.3.2 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the Company Secretary or other Director to provide information and advise the Board in accordance with any statutory requirements.

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

9 DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

9.1 **Declaration of Interests** If a director has a pecuniary, personal or family interest, whether the interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Board of Directors, the director shall disclose that interest to the members of the Board of Directors as soon as he becomes aware of it.

9.2 Interests which may be declared may include but are not exclusive to:

- 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) Shareholdings in organisations likely or possibly seeking to do business with the NHS.
- d) A position of trust in a charity or voluntary organisation in the field of health and social care;
- e) Any connection with a voluntary or other organisation contracting for NHS services;
- f) Any other commercial interest in the decision the committee or Board meeting may be considering

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

9.4 At the time Board members' interests are declared, they should be recorded in the Board minutes. Any changes in interests should be declared at the next Board meeting following the change occurring.

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

9.6 During the course of a 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 (unless the Board decides otherwise) or decision.

9.7 The interests of Board members' spouses or cohabiting partners should be declared.

9.8 If Board members have any doubt about the relevance of an interest, this should be discussed with the Chairman. Financial Reporting Standard No 102 (issued by the Financial Reporting Council) 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.

9.9 **Register of Interests**

Register of Interests is established to record formally declarations of interests of Board members. In particular the Register will include details of all directorships and other relevant and material interests which have been declared by both Director and Non-executive Directors, as defined in Standing Order 9.2.

9.10 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.

9.11 The Register will be available for inspection by members of the public.

10. DISABILITY OF CHAIRMAN AND DIRECTORS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST

10.1 Subject to the following provisions of this Standing Order, if the Chairman or any member of the Board of Directors has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Board of Directors at which the contract or other matter is the subject of consideration, he/she shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter, without the Chairman of the meeting's agreement, or vote on any question with respect to it.

10.2 The Board of Directors shall exclude the Chairman or a Director from a meeting of the Board of Directors while any contract, proposed contract or other matter in which he/she has a pecuniary interest, is under consideration.

10.3 For the purpose of this Standing Order the Chairman or a Director shall be treated, subject to SO 9.1 and SO 10.4, as indirectly having a pecuniary interest in a contract, proposed contract or other matter, if:

- a) he/she, or a nominee of him/her, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matters under consideration; or
- b) he/she is a partner of, or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration; and in the case of persons living together, the interest of one person shall, if known to the other, be deemed for the purposes of this Standing Order to be also an interest of the other.

10.4 The Chairman or a member shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only because:

- a) of their membership of a company or other body, if he/she has no beneficial interest in any securities of that company or other body;
- b) of an interest in any company, body or person with which he/she is connected as mentioned in SO 10.3 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of or in voting on, any question with respect to that contract or matter.

- 10.6 Where the Chairman or a Director:
- a) has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and
 - b) the total nominal value of those securities does not exceed one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and
 - c) if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one hundredth of the total issued share capital of that class, this Standing Order shall not prohibit him/her from taking part in the consideration or discussion of the contract or other matter from voting on any question with respect to it without prejudice however to his/her duty to disclose his/her interest.

11. STANDARDS OF BUSINESS CONDUCT

11.1 Interests of Officers in Contracts

If it comes to the knowledge of a Director of the LLP that a contract is which he/she has any pecuniary interest not being a contract to which he/she is himself/herself a party, has been, or is proposed to be, entered into by the LLP he/she shall, at once, give notice in writing to the Chief Executive of the fact that he/she is interested therein.

- 11.3 An officer must also declare to the Chief Executive any other employment or business or other relationship of him/her, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the LLP. The LLP requires interests, employment or relationships so declared by staff to be entered in a register of interests of staff.

11.4 Relatives of Members of the Board of Directors

Candidates for any staff appointment shall when making application disclose in writing whether they are related to any member of the Board or the holder of any office within the LLP. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him/her liable to instant dismissal.

- 11.8. The Chairman and every Director of the LLP shall disclose to the Chief Executive any relationship with a candidate of whose candidature that the Chairman, members or Director is aware. It shall be the duty of the Chief Executive or nominated Director to report to the Board of Directors any such disclosure made.

- 11.9 On appointment, the Chairman and members of the Board (and prior to acceptance of an appointment in the case of Directors) should disclose to the Board of Directors whether they are related to any other member or holder of any office under the LLP.

- 11.10 Where the relationship of a Director or another member of the Board or another member of the LLP is disclosed, the Standing Order headed shall apply (Disability of Directors in proceedings on account of pecuniary interest).

12. BOARD PERFORMANCE

The Chairman, with the assistance of the Company Secretary, shall lead, at least annually, a performance assessment process for the Board. This process should act as the basis for determining individual and collective professional development programmes for Directors.

13. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

13.1 Custody of Seal

The Common Seal of the Trust shall be kept by the Chief Executive or nominated person in a secure place.

13.2 Sealing of Documents

The Seal of the LLP shall not be fixed to any documents unless the sealing has been authorised by a resolution of the or where the Board has delegated its powers.

13.3 Before any building, engineering, property or capital document is sealed it must be approved and signed by any two as delegated by the Board – Chairman, Chief Executive, and Company Secretary.

13.4 The form of the attestation of documents shall be “The Seal of the South Tees Institute of Learning, Research and Innovation LLP was hereto affixed in the presence of”.

13.5 Register of Sealing

An entry of every sealing shall be made and numbered consecutively in a record provided for that purpose, and shall be signed by the persons who shall have approved and authorised the document and attested the seal. A report of all sealing shall be made to the next Board of Directors meeting. (The report shall contain details of the seal number, the description of the document and date of sealing).

14. SIGNATURE OF DOCUMENTS

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

14.2 The Chief Executive or nominated officers shall be authorised by resolution of the Board, to sign on behalf of the LLP any agreement or other document (not required to be executed as a deed) the subject matter of which has been approved by the Board.

Policy Agreement / Approval

The following groups/ committees/individuals have reviewed and agreed this procedural document

Final Approved by	Date Agreed	Date for Review
Board of Directors	04/07/2017	March 2019

CORPORATE GOVERNANCE POLICY

Document No: CG02
*All Sites

STANDING FINANCIAL INSTRUCTIONS

TITLE	Standing Financial Instructions
Version:	1
Final Approval by: Board of Directors Date:	4 July 2017
Author/lead responsible for policy:	Company Secretary/Chief Executive
Date issued:	4 th July 2017
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Target audience:	Board Members Senior Staff
Amendments and Additions	
Replaces/supersedes:	Not applicable
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Issued by:

Secretary

Standing Financial Instructions

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1. Introduction

1.1 General

NHS Improvement sets the terms of authorisation for South Tees Hospitals NHS Foundation Trust (the Trust), that require compliance with the principles of best practice applicable to corporate governance within the NHS/Health Sector, relevant codes of practice and guidance issued by NHS Improvement. South Tees Institute of Learning, Research and Innovation LLP ("the company") and its Board of Directors have chosen to adopt these principles of best practice.

- 1.1.1 These Standing Financial Instructions detail the financial responsibilities, policies and procedures adopted by the Company. They are designed to ensure that the Company's financial transactions are carried out in accordance with the law and with government policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the schedule of decisions reserved to the Board and the Scheme of Delegation adopted by the Company.
- 1.1.2 These Standing Financial Instructions identify the financial responsibilities which apply to everyone working for the Company and its constituent organisations including trading units. These are **not** detailed procedural advice notes. These standards should therefore be read in conjunction with the detailed departmental and financial procedure notes. All financial procedures must be approved by the Company Secretary.
- 1.1.3 Should any difficulties arise regarding the interpretation or application of any of the Standing Financial Instructions then the advice of the Company Secretary **must be sought before acting**. The user of these Standing Financial Instructions should also be familiar with and comply with the provisions of the Company's Standing Orders.
- 1.1.4 Failure to comply with Standing Financial Instructions and Standing Orders is a disciplinary matter that could result in dismissal.

1.2 Overriding standing Financial Instructions

If for any reason the Standing Financial Instructions are not complied with, full details of the non-compliance, any justification for non-compliance and the circumstances around the non-compliance shall be reported to the Company Secretary for referring action. All members of the Board of Directors, known as the Board and staff have a duty to disclose any non-compliance with these Standing Financial Instructions to the Company Secretary as soon as possible.

2. Definitions

2.1 Any expression, to which a meaning is given in Health Service Acts, or in the Financial Directions made under the Acts, shall have the same meaning in these instructions.

Company	South Tees Institute of Learning, Research and Innovation LLP
Board	The Board of Directors of the South Tees Institute of Learning, Research and Innovation LLP.
Budget	A resource, expressed in financial terms, sanctioned by the Board for the purpose of carrying out, for a specific period, any or all of the functions of the Company.
Budget holder	The Director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation.
Chief Executive	The Accountable Officer of the Company.
Company Secretary	Company Secretary of the Company.
Executive Director	A person appointed as a director in accordance with the constitution with day-to-day operational responsibility for the Company. All Directors are voting members of Board.
Legal adviser	A person qualified in law and appointed by the Company to provide legal advice.
NHS Improvement	The independent regulator of NHS Foundation Trust's (Monitor merged with the TDA and the merged bodies is called NHS Improvement from April 2016).

2.2 Wherever the title Chief Executive, Company Secretary, or other nominated employee is used in these instructions, it shall be deemed to include such other directors or employees who have been duly authorised to represent them.

2.3 Wherever the term "employee" is used, and where the context permits, it shall be deemed to include employees of third parties contracted to the Company when acting on behalf of the Company.

3. Roles and Responsibilities (Duties)

Role	Responsibilities
<p>Chief Executive</p>	<p>a) Within the Standing Financial Instructions, it is acknowledged that the Chief Executive is ultimately accountable to the Board for ensuring that the Board meets its obligation within the available financial resources.</p> <p>b) The Chief Executive has overall executive responsibility for the Company's activities; is responsible to the Board for ensuring that its financial obligations and targets are met and has overall responsibility for the Company's system of internal control.</p> <p>c) The Chief Executive and Company Secretary will, as far as possible, delegate their detailed responsibilities, but they remain accountable for financial control.</p> <p>It is a duty of the Chief Executive to ensure that members of the Board and employees are notified of and understand their responsibilities within these instructions.</p>
<p>Board of Directors</p>	<p>The Company shall at all times remain a going concern (assessment that the Company will continue in operation for the foreseeable future and not go into liquidation and cease trading) as defined by the relevant accounting standards in force. The Board exercises financial supervision and control by:</p> <p>a) formulating the financial strategy;</p> <p>b) requiring the submission and approval of the Annual Plan;</p> <p>c) defining specific responsibilities placed on members of the Board and employees as indicated in the Scheme of Delegation;</p> <p>d) Developing strong budgetary control, cash and treasury management procedures.</p> <p>The Board has resolved that certain powers and decisions may only be exercised by a formal session of the Board. These are set out in the decisions reserved to the Board document.</p> <p>The Board will delegate responsibility for the performance of its functions in accordance with the Scheme of Delegation adopted by the Company.</p>

<p>Company Secretary</p>	<p>The Company Secretary is responsible for:</p> <ul style="list-style-type: none"> a) Developing, implementing, maintaining and updating the Company's financial policies and for co-ordinating any corrective action necessary to further these policies; (The SFIs themselves do not provide detailed procedural advice. These statements should be read in conjunction with the detailed departmental and financial procedure notes for which the Company Secretary is also responsible for development and maintenance). b) maintaining an effective system of internal financial control including ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions; c) ensuring that sufficient records are maintained to show and explain the Company's transactions, in order to disclose, with reasonable accuracy, the financial position of the Company at any time. <p>The duties of the Company Secretary include:</p> <ul style="list-style-type: none"> a) the provision of financial advice to other members of the Board, Council of Governors and employees; b) the design, implementation and supervision of systems of internal financial control and the preparation and maintenance of such accounts, estimates, models, programmes, records and reports as the Company may require for the purpose of carrying out its statutory duties.
<p>Board members and employees</p>	<p>All directors and employees, individually and collectively, are responsible for:</p> <ul style="list-style-type: none"> a) the security of the property of the Company; b) avoiding loss; c) exercising economy and efficiency in the use of resources; d) conforming to the requirements of Standing Orders, Standing Financial Instructions, financial procedures and the Scheme of Delegation.
<p>Contractors and their employees</p>	<p>Any contractor or employee of a contractor who is empowered by the Company to commit the Company to expenditure or who is authorised to obtain income shall be covered by these instructions. It is the responsibility of the Chief Executive to ensure that such persons are made aware of this.</p>

	For any directors and employees who carry out a financial function, the form in which financial records are kept and the manner in which directors and employees discharge their duties must be to the satisfaction of the Company Secretary.
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4. Audit

4.1 The Company Secretary will ensure appropriate and proportionate audit arrangements are in place.

4.2 Fraud and corruption

4.2.1 In line with their responsibilities, the Chief Executive and Company Secretary will monitor and ensure compliance with Secretary of State directions on fraud , bribery and corruption which are replicated in the Department of Health's base model contract for Foundation Companys.

4.2.2 The Company shall nominate a suitable person to carry out the duties of the Local Counter Fraud Specialist (LCFS) as specified by the NHS Anti-Fraud Manual and guidance.

4.2.3 The LCFS shall report to the Company Secretary and shall work with NHS Protect staff as required, in accordance with the NHS Protect Anti-Fraud Manual.

4.2.4 Security management

- a The Chief Executive will monitor and ensure compliance with directions issued by the Secretary of State for Health on NHS security management.
- b The Company shall nominate a suitable person to carry out the duties of the Local Security Management Specialist (LSMS) as specified by the Secretary of State for Health guidance and the NHS Security Management Manual.
- c The Company shall nominate a Non-Executive Director to be responsible to the Board for NHS security management.
- d The Chief Executive has overall responsibility for controlling and coordinating security. However, key tasks are delegated by the Chief Executive to relevant members of staff for security management and the appointed (LSMS).

4.3 Company Secretary

4.3.1 the Company Secretary is responsible for:

- a ensuring there are arrangements to review, evaluate and report on the effectiveness of internal financial control including the establishment of an effective Internal Audit function and the coordination of other assurance arrangements;
- b ensuring that the Internal Audit function is adequate and meets the Audit Code for NHS Foundation Companys;

- c deciding at what stage to involve the police in cases of misappropriation and other irregularities;
- d ensuring that an annual Internal Audit report is prepared for the consideration of the Audit Committee and the Board.

The report must cover:

- i a clear statement on the effectiveness of internal control;
- ii major internal financial control weaknesses discovered;
- iii progress on the implementation of Internal Audit recommendations;
- iv progress against plan over the previous year;
- v strategic audit plan covering the coming 3 years; and
- vi a detailed plan for the coming year.

4.3.2 The Company Secretary or designated auditors are entitled without necessarily giving prior notice to require and receive:

- a access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;
- b access at all reasonable times to any land, premises or members of the Board, Council of Governors or employee of the Company;
- c the production of any cash, stores or other property of the Company under a member of the Board or employee's control; and
- d explanations concerning any matter under investigation.

4.4 **Role of Internal Audit**

4.4.1 Internal Audit will review, appraise and report upon:

- a The extent of compliance with, and the financial effect of, relevant established policies, plans and procedures;
- b The adequacy and application of financial and other related management controls;
- c The suitability of financial and other related management data;
- d The extent to which the Company's assets and interests are accounted for and safeguarded from loss of any kind, arising from:
 - i fraud and other offences;
 - ii waste, extravagance, inefficient administration;
 - iii poor value for money or other causes.

- e Independently verify the assurance statements in accordance with guidance from the Department of Health or NHS Improvement.
- f Reporting on the standards for better health in accordance with guidance from the Care Quality Commission (CQC).

4.4.2 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores, or other property or any suspected irregularity in the exercise of any function of a pecuniary nature, the Company Secretary must be notified immediately.

4.4.3 The Director of Internal Audit services shall be accountable to the Company Secretary. The reporting system for internal audit shall be agreed between the Company Secretary and the Director of Internal Audit services. The agreement shall be in writing and shall comply with the guidance on reporting contained in the NHS Internal Audit Standards. The reporting system shall be reviewed at least every three years.

4.5 External Audit

4.5.1 The External Auditor is appointed by the Board of Directors and paid for by the Company.

4.5.2 In the event of the external auditor issuing a public interest report the Company shall forward a report to South Tees FT who will in turn consider the requirement to notify NHS Improvement within 30 days (or such shorter period that NHS Improvement may specify) of the report being issued. The report shall include details of the Company's response to the issues raised within the public interest report.

4.5.3 The external audit manager will normally attend relevant Board meetings.

5. Business planning, budgets and budgetary control

5.1 Preparation and approval of business plans and budgets

5.1.1 The Chief Executive will compile and submit to the Board an annual business plan which takes into account financial targets and forecast limits of available resources. The annual business plan will contain:

- a a statement of the significant assumptions on which the plan is based;
- b details of key objectives for the year ahead, resource and funding requirements to deliver these objectives

5.1.2 Prior to the start of the financial year the Company Secretary will, on behalf of the Chief Executive, prepare and submit budgets for approval by the Board. Such budgets will:

- a be in accordance with the aims and objectives set out in the business plan
- b be produced following discussion with appropriate budget holders;
- c be prepared within the limits of available funds;

- d identify potential risks and opportunities; and
- e be based on reasonable and realistic assumptions.

5.1.3 The Company Secretary shall monitor current financial performance, providing a forecast to the end of the financial year with a comparison against budget to date and full year as detailed in the business on a minimum of quarterly frequency. Further updates are provided on cash, the capital programme and on working capital. Any significant variances should be reported by the Company Secretary as soon as they come to light and the Board shall be advised of appropriate actions required to resolve resultant issues in respect of such variances.

5.1.4 All budget holders must sign up to their allocated budgets at the commencement of each financial year and must provide information as required by the Company Secretary to enable budgets to be compiled.

5.1.5 The Company Secretary has a responsibility to ensure that adequate training is delivered on an on-going basis to budget holders to help them manage their budgets successfully.

5.2 **Budgetary delegation**

5.2.1 The Chief Executive will delegate the management of a budget to permit the performance of a defined range of activities. This delegation is accompanied by a clear definition of:

- a the amount of the budget;
- b the purpose(s) of each budget heading;
- c individual and group responsibilities;
- d achievement of planned levels of service; and
- e the provision of regular reports.

5.2.2 The chief executive and delegated budget holders must not exceed the budgetary total set by the Board.

5.2.3 Any budgeted funds not required for their designated purpose(s) revert to the immediate control of the Chief Executive, subject to any authorised use of virement.

5.2.4 Non-recurring budgets should not be used to finance recurring expenditure without authority in writing from the Company Secretary, acting on behalf of the Chief Executive.

5.3 **Budgetary control and reporting**

5.3.1 The Company Secretary will devise and maintain systems of budgetary control. These will include:

- a Quarterly financial reports to the Board in a form approved by the Board containing:
 - i Statement of Comprehensive Income to date showing trends;

- ii Statement of Financial Position and cash flow update including explanation for movements with the statement, where significant;
 - iii capital project spend, projected outturn against plan and details of performance;
 - iv Forecast position on all major statements to the year end with comparison against planned budget;
 - v explanations of any material variances from plan/budget;
 - vi details of any corrective action where necessary and the Chief Executive's and/or Company Secretary's view of whether such actions are sufficient to correct the situation;
 - vii Identification of risk profiles and mediating action.
- b The issue of timely, accurate and comprehensible advice and financial reports to each budget holder, covering the areas for which they are responsible.
 - c Investigation and reporting of variances from budgets;
 - d Monitoring of management action to correct variances; and
 - e Arrangements for the authorisation of budget transfers.
 - f Advising the Chief Executive and the Company's Board of the consequences of changes in policy, pay awards and other events and trends affecting budgets and the provision of advice on the economic and financial impact of future plans and projects
 - g Review of the bases and assumptions used to prepare the budgets.

In the performance of these duties the Company Secretary will have access to all budget holders and budget managers on budgetary matters and shall be provided with such financial and statistical information as is necessary.

5.3.2 Each Budget Holder is responsible for ensuring that:

- a any planned or known overspending or reduction of income which cannot be met by authorised virement is not incurred without the prior consent of the Board;
- b officers shall not exceed the budget limit set;
- c the amount provided in the approved budget is not used in whole or in part for any purpose other than that specifically authorised; and
- d no permanent employees are appointed without the approval of the Chief Executive or Company Secretary other than those provided for in the budgeted establishment as approved by the Board.

5.4 Investments

5.4.1 Certain investment decisions will require unanimous agreement of the members of the LLP partnership deed. Therefore the Chief Executive will be required to seek South Tees FT Board approval for any such investments as follows: -

- Investments which fall outside of the scope of investments permitted under the Business Plan
- Entering into any contract, arrangement, license, joint venture or agreement with a value in excess of £250k
- Acquiring any asset in excess of £250k not contained within the Business Plan
- Making any loan in excess of £250k or granting of any credit, guarantee or indemnity, other than in the normal course of trading as set out in the Business Plan

5.5 Investment expenditure

5.5.1 The general rules applying to delegation and reporting shall also apply to expenditure on investments. (The particular applications relating to investment are contained in chapter 12).

5.6 Monitoring returns

5.6.1 The Chief Executive is responsible for ensuring that any information that the South Tees FT requires, facilitating the appropriate completion of monitoring forms to be submitted, is provided in a timely manner to enable the South Tees FT to comply with its obligations.

6. Annual accounts and reports

6.1 Accounts

6.1.1 The Company Secretary, on behalf of the Company, will in accordance with the South Tees FT constitution:

- a Prepare financial returns in accordance with the Company's accounting policies, guidance given by International Financial Reporting Standards (IFRS); and
- b Prepare and submit relevant financial information to support submission of South Tees FT annual financial returns to NHS Improvement each financial year certified in accordance with current guidelines and in line with the prescribed timetable.

6.1.2 The Company's audited annual accounts must be presented to a general meeting of the Board.

6.2 Annual reports

6.2.1 The Chief Executive will, on behalf of the Company, publish an Annual Report to a general meeting of the Board. The document and its submission requirements will be reported to South Tees FT Board.

7. Banking arrangements

7.1 General

7.1.1 The Company Secretary is responsible for managing the Company's banking arrangements and for advising the Company on the provision of banking services and operation of accounts. This advice will take into account guidance and directions issued from time to time by NHS Improvement and the Company's Treasury Management Policy.

7.1.2 The Board shall approve the banking arrangements.

7.2 Government Banking Service and other bank accounts

7.2.1 The Company Secretary is responsible for:

- a Government Banking Service (GBS) accounts and other bank accounts; including forms of working capital facilities that may be available from the Department of Health.
- b establishing separate bank accounts for the Company's funds held on Company; and
- c ensuring payments made from the Company's bank accounts do not exceed the amount credited to the Company's accounts except where arrangements have been made.

7.2.2 All accounts should be held in the name of the Company. No officer other than the Company Secretary shall open any account in the name of the Company or for the purpose of furthering Company activities.

7.3 Banking procedures

7.3.1 The Company Secretary will prepare detailed instructions on the operation of the Company's bank accounts which must include:

- a the conditions under which each bank account is to be operated; and
- b those authorised to authorise payments or sign cheques or other orders drawn on the Company's accounts.

7.3.2 The Company Secretary must advise the Company's bankers in writing of the conditions under which each account will be operated.

7.3.3 Manually produced cheques shall be signed by the authorised officer(s) in accordance with the bank mandate. All cheques shall be treated as controlled stationery, in the charge of a duly designated officer controlling their issue.

7.4 Tendering and review

7.4.1 The Company Secretary will review the commercial banking arrangements of the Company at regular intervals to ensure they reflect best practice and represent best value for money by periodically seeking competitive tenders for the Company's commercial banking business.

7.4.2 Competitive tenders should be sought at least every five years. The results of the tendering exercise should be reported to the Board.

7.5 Electronic transfers of funds

7.5.1 All electronic transfers of funds must only be made under secure arrangements approved by the Company Secretary.

8. Income, fees and charges and security of cash, cheques and other negotiable instruments

8.1 Income systems

8.1.1 The Company Secretary is responsible for designing maintaining and ensuring compliance with systems for the proper recording, invoicing, collection and coding (both in terms of accounting and in terms of activity to maximise income) of all monies due.

8.1.2 All such systems shall incorporate, where practicable, the principles of internal check and separation of duties

8.1.3 The Company Secretary is also responsible for the prompt banking of all monies received.

8.2 Fees and charges

8.2.1 The Company Secretary is responsible for approving and regularly reviewing the level of all fees and charges. Independent professional advice on matters of valuation shall be taken as necessary. Where sponsorship income (including items in kind such as subsidised goods or loans of equipment) is considered the guidance in the Department of Health's Commercial Sponsorship – Ethical standards for the NHS shall be followed on behalf of the Members of the LLP partnership deed.

8.2.2 All employees must inform the Company Secretary promptly of money due arising from transactions which they initiate/deal with, including all contracts, leases, tenancy agreements, private patient undertakings and other transactions.

8.3 Debt recovery

8.3.1 The Company Secretary is responsible for the appropriate recovery action on all outstanding debts. This will include the use of alternative providers for the provision of debt services and external debt recovery services, where appropriate.

8.3.2 Income not received should be dealt with in accordance with losses and special payments procedures.

8.3.3 Overpayments should be detected (or preferably prevented) and recovery initiated.

8.4 Security of cash and cheques

8.4.1 The Company Secretary is responsible for:

- a approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable;
- b ordering and securely controlling any such stationery;
- c the provision of adequate facilities and systems for employees whose duties include collecting and holding cash, including the provision of safes or lockable cash boxes, the procedures for keys, and for coin operated machines;

d prescribing systems and procedures for handling cash on behalf of the Company.

8.4.2 Official money shall not under any circumstances be used for the encashment of private cheques.

8.4.3 All cheques, postal orders, cash etc., shall be banked intact. Disbursements shall not be made from cash received, except under arrangements approved by the Company Secretary.

8.4.4 Any loss or shortfall of cash, cheques or other negotiable instruments shall be reported in accordance with the procedure for losses and special payments.

8.4.5 Where there is evidence of fraud or corruption this should be dealt with in line with the Company's Fraud and Corruption Response Plan and the guidance provided by the Counter Fraud and Security Management Service.

9. Contracting for provision of services

9.1 Duty to comply with Standing Orders and Standing Financial Instructions

The procedure for making all contracts by or on behalf of the Company shall comply with Standing Orders, Standing Financial Instructions, the Scheme of Delegation and take advice where required through the Company's arrangements for support services from the South Tees FT Procurement Department.

9.2 Legislation and guidance governing public procurement

The Company shall comply with all relevant legislation in relation to Procurement activity.

9.3 Capital investment

The Company shall ensure appropriate Capital investment plans are in place to support the Business Plan with any investments outside of the Business Plan considered by the Chief Executive and Company Secretary or where applicable by reference to Section 5 of these instructions.

9.4 Formal competitive tendering

Formal tendering will apply to all aggregated expenditure that exceeds, or is likely to exceed, £50,000. The only circumstances in which this can be waived are outlined in paragraph 9.4.2.

9.4.1 General applicability

The Company shall ensure that competitive tenders are invited for:

- a the supply of goods, materials and manufactured articles;
- b the rendering of services including all forms of management consultancy services.
- c For the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens);
- d Disposals of any tangible or intangible property (including equipment, land and intellectual property).

9.4.2 Exceptions and instances where formal tendering need not be applied

Formal tendering procedures **need not be applied** where:

- a the estimated expenditure or income does not, or is not reasonably expected to, exceed £50,000;
- b the supply can be obtained under a framework agreement that has itself been procured in compliance with the duties set out at paragraph 9.2 above and where the Company is entitled to access such framework agreements.

Formal tendering procedures **may be waived** in the following circumstances:

- c in very exceptional circumstances where the Chief Executive decides that formal tendering procedures would not be practicable or the estimated expenditure or income would not warrant formal tendering procedures, and the circumstances are detailed in an appropriate Company record;
- d where the requirement is covered by an existing contract;
- e where national or regional procurement agreements are in place and have been approved by the Board;
- f where a consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members;
- g where the timescale genuinely precludes competitive tendering and when supplies are deemed clinically urgent;
- h where specialist expertise is required and is available from only one source;
- i when the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;
- j there is a clear benefit to be gained from maintaining continuity with an earlier project. However in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering;
- k for the provision of legal advice and services providing that any legal firm or partnership commissioned by the Company is regulated by the Law Society for England and Wales for the conduct of their business (or by the Bar Council for England and Wales in relation to the obtaining of counsel's opinion) and are generally recognised as having sufficient expertise in the area of work for which they are commissioned.

The Company Secretary will ensure that any fees paid are reasonable and within commonly accepted rates for the costing of such work.

The waiving of competitive tendering procedures should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.

Where it is decided that competitive tendering is not applicable and should be waived, the fact of the waiver and the reasons should be documented and recorded in an appropriate Company record. In the event of a waiver being approved for the

supply of goods or services, the Company should agree to carry out a tender process to support future requirements.

9.4.3 Fair transparent and adequate competition

Except where the exceptions set out in SFI No 9.4.2 apply and allow the use of single tender action, the Company shall ensure that invitations to tender are through a tendering process that is fair and transparent. Where a tendering process is conducted the Company shall, in order to assure that best value is obtained invite tenders from a sufficient number of firms/individuals to provide fair and adequate competition as appropriate.

9.4.4 Building and engineering construction works

Competitive tendering cannot be waived for building and engineering construction works and maintenance without referral to South Tees FT Board for approval.

9.4.5 Items which subsequently breach thresholds after original approval

Items estimated to be below the limits set in this Standing Financial Instruction for which formal tendering procedures are not used which subsequently prove to have a value above such limits shall be reported to the Chief Executive, and be recorded in the authorisation documentation, usually a Single Tender Waiver .

9.5 Contracting/tendering procedure

9.5.1 Invitation to tender

- a All formal tender activity must be conducted electronically via the Company's e-procurement system. This includes submission of notices, publication of documents, interaction with potential providers and notification of outcomes. Only in exceptional circumstances, and with the prior approval of the Chief Executive, can hardcopies tenders be accepted.
- b Every tender for goods, materials, services or disposals shall contain and comprise appropriate terms and conditions regulating the conduct of the tender and shall contain appropriate terms and conditions on which the contract is to be awarded and shall be substantively based to regulate the provision of the goods, materials, services to be provided or in relation to the disposal.
- c Every tender for building or engineering works shall contain terms and conditions on which the contract to be awarded shall be substantively based; that shall embody or be in the terms of the current edition of one of the Joint Contracts Tribunal Standard Forms of Building Contract or Department of the Environment (GC/Wks) Standard forms of contract ; or, when the content of the work is primarily engineering, the General Conditions of Contract recommended by the Institution of Mechanical and Electrical Engineers and the Association of Consulting Engineers (Form A), or (in the case of civil engineering work) the General Conditions of Contract recommended by the Institute of Civil Engineers, the Association of Consulting Engineers and the Federation of Civil Engineering Contractors. These documents shall be modified (in minor respects only), to cover special features of individual projects.

9.5.2 Receipt and safe custody of tenders

The Chief Executive or her nominated representative will be responsible for the receipt, endorsement and safe custody of the electronically held submissions until the appointed opening time.

9.5.3 Opening tenders and Register of tenders

A register shall be maintained by the Chief Executive, or a person authorised by her, to show for each set of competitive tender invitations despatched:

- i the name of all firms individuals invited;
- ii the names of firms individuals from which tenders have been received;
- iii the date the tenders were opened;
- v the price shown on each tender;
- vi Incomplete tenders, i.e. those from which information necessary for the adjudication of the tender is missing, and amended tenders i.e. those amended by the tenderer upon his own initiative either orally or in writing after the due time for receipt, but prior to the opening of other tenders, should be dealt with in the same way as late tenders. (Standing Order No. 9.5.5 below).

9.5.4 Admissibility

- a If for any reason the designated officers are of the opinion that the tenders received are not competitive (for example, because their numbers are insufficient or any are amended, incomplete or qualified) no contract shall be awarded without the approval of the Chief Executive.
- b Where only one tender is sought and/or received, the Chief Executive and Company Secretary shall, as far practicable, ensure that the price to be paid is fair and reasonable and will ensure value for money for the Company. Evidence of this must be recorded in the authorisation documentation

9.5.5 Late tenders

- a Tenders received after the due time and date, but prior to the opening of the other tenders, may be considered only if the Chief Executive or his nominated officer decides that there are exceptional circumstances.
- b While decisions as to the admissibility of late, incomplete or amended tenders are under consideration, the tender documents shall be kept strictly confidential.

9.5.6 Acceptance of formal tenders

- a Any discussions with a tenderer which are deemed necessary to clarify technical aspects of his tender before the award of a contract will not disqualify the tender.
- b The lowest tender, if payment is to be made by the Company, or the highest, if payment is to be received by the Company, shall be accepted, unless there are good and sufficient reasons to the contrary. Such reasons shall be set out in either the contract file, or other appropriate record.

It is accepted that for professional services such as management consultancy, the lowest price does not always represent the best value for money. Other factors affecting the success of a project include:

- i experience and qualifications of team members;
- ii understanding of client's needs;
- iii feasibility and credibility of proposed approach;
- iv ability to complete the project on time.

Where other factors are taken into account in selecting a tenderer, these must be clearly recorded and documented in the contract file, and the reason(s) for not accepting the lowest tender (if payment is to be made by the Company) or the highest (if payment is to be received by the Company) clearly stated.

- c No tender shall be accepted which will commit expenditure in excess of that which has been allocated by the Company and which is not in accordance with these instructions except with the authorisation of the Chief Executive or through delegation to the Company Secretary.
- d The use of these procedures must demonstrate that the award of the contract was:
 - i not in excess of the going market rate / price current at the time the contract was awarded;
 - ii that best value for money was achieved;
 - iii All tenders should be treated as confidential and should be retained for inspection in line with the Company Retention Policy.

9.6 **Quotations: competitive and non-competitive**

9.6.1 **General position on quotations**

Quotations are required where formal tendering procedures are not adopted and where the intended aggregated expenditure or income exceeds £10,000 but is not greater than £50,000.

9.6.2 **Competitive quotations**

- a Quotations should be obtained from at least 3 firms/individuals based on specifications or terms of reference prepared by, or on behalf of, the Company.
- b All quotations should be treated as confidential and should be retained for inspection.
- c The Chief Executive or her nominated officer should evaluate the quotation and select the quote which gives the best value for money. If this is not the lowest quotation then the choice made and the reasons why should be recorded in a permanent record.

9.6.3 **Non-competitive quotations**

Non-competitive quotations in writing may be obtained in the following circumstances:

- a the supply of goods or manufactured articles of any kind which are required for reasons of clinical urgency and are not obtainable under existing contracts;
- b where the goods or services are for building and engineering maintenance the responsible works manager must certify that the first two conditions of this SFI (i.e.: (a) and (b) of this SFI) apply.

9.6.4 Quotations to be within financial limits

No quotation shall be accepted which will commit expenditure in excess of that which has been allocated by the Company and which is not in accordance with Standing Financial Instructions except with the authorisation of either the Chief Executive or Company Secretary.

9.7 Authorisation of tenders and competitive quotations

Providing all the conditions and circumstances set out in these Standing Financial Instructions have been fully complied with, formal authorisation and awarding of a contract may be decided by the following staff to the value of the contract as follows:

Budget holders in association with Procurement support as required	up to £5,000 (informal quotations)
Company Secretary	up to £50,000
Chief Executive	up to £250,000
Referral to members of the LLP Partnership Deed	over £250,000

These levels of authorisation may be varied or changed and need to be read in conjunction with the Board's Scheme of Delegation.

Formal authorisation must be put in writing.

9.8 Instances where formal competitive tendering or competitive quotation is not required

The exceptions where formal competitive tendering does not need to be applied are covered in section 9.4.2.

9.9 Compliance requirements for all contracts

The Board may only enter into contracts on behalf of the Company within the statutory powers of the Company.

9.10 Disposals

The disposal of Company property, equipment and stores should be in line with the Company's procedures relating to the management of medical devices and information governance policies relating to personal liability and data protection.

10. Terms of service and payment of directors and employees

10.1 Remuneration and terms of Service (see overlap with SO No. 6)

10.1.1 The remuneration of all Board members including the Chief Executive are pre-determined by the members of the LLP Partnership Deed.

10.2 Contracts of employment

10.5.1 The Board shall delegate responsibility to the South Tees FT Director of Human Resources for:

- a ensuring that all employees are issued with a contract of employment in a form approved by the Board and which complies with employment and health and safety legislation;
- b dealing with variations to, or termination of, contracts of employment.

11. Non-pay expenditure

11.1 Delegation of authority

11.1.1 The Board will approve the level of non-pay expenditure on an annual basis and the Chief Executive will determine the level of delegation to budget managers.

11.2 Choice, requisitioning, ordering, receipt and payment for goods and services

11.2.1 Requisitioning

The requisitioner, in choosing the item to be supplied (or the service to be performed) shall always obtain the best value for money for the Company. In so doing, the advice of the Company's adviser, South Tees FT Head of Procurement, on supply shall be sought.

11.2.2 System of payment and payment verification

The Company Secretary shall be responsible for the prompt payment of properly authorised accounts and claims in accordance with the Better Payment Practice Code (BPPC). Payment of contract invoices shall be in accordance with contract terms, or otherwise, in accordance with national guidance.

11.2.3 The Company Secretary will:

- a advise the Board regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; and, once approved, the thresholds should be incorporated in Standing Orders and Standing Financial Instructions and regularly reviewed;
- b be responsible for the timely payment of all properly authorised accounts and claims;
- c be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable. The system shall provide for:
 - i A list of directors/employees authorised to approve or incur expenditure. Where the authorisation system is computerised the list will be maintained within the computerised system and the signature' will be in the form of electronic authorisation in accordance with the

access and authority controls maintained within the computerised system

- ii Certification that:
 - goods have been duly received, examined and are in accordance with specification and the prices are correct;
 - work done or services rendered have been satisfactorily carried out in accordance with the order, and, where applicable, the materials used are of the requisite standard and the charges are correct;
 - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for the use of vehicles, plant and machinery have been examined;
 - where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
 - the account is arithmetically correct;
 - the account is in order for payment.
- iii A timetable and system for submission to the Company Secretary of accounts for payment; provision shall be made for the early submission of accounts cashflow permitting, subject to accounts requiring early payment and cash discounts..
- iv Instructions to employees regarding the handling and payment of accounts within the Finance department.

11.2.4 Be responsible for ensuring that payment for goods and services is only made once the goods and services are received. The only exceptions are set out in SFI No 11.2.5 below.

11.2.5 Prepayments

Prepayments outside of normal commercial arrangements, for example fully comprehensive maintenance contracts, rental, insurance are only permitted where exceptional circumstances apply. In such instances:

- a Prepayments are only permitted where the financial advantages outweigh the disadvantages for cash flow purposes providing financial benefits i.e discounts.
- b The Head of Procurement as part of the authorisation process must provide, in the form of a written report, a case setting out all relevant circumstances of the purchase. The report must set out the effects on the Company if the supplier is at some time during the course of the prepayment agreement unable to meet his commitments;
- c The Company Secretary will need to be satisfied with the proposed arrangements before contractual arrangements proceed;

- d The budget holder is responsible for ensuring that all items due under a prepayment contract are received and they must immediately inform the appropriate director or Chief Executive if problems are encountered.

11.2.6 Official orders

Official orders must:

- a include a unique identifiable number;
- b be in a form approved by the Company Secretary;
- c state the Company's terms and conditions of trade;
- d only be issued to, and used by, those duly authorised by the Chief Executive.

11.2.7 Duties of managers and officers

Managers and officers must ensure that they comply fully with the guidance and limits specified by the Company Secretary and that:

- a all contracts (except as otherwise provided for in the Scheme of Delegation), leases, tenancy agreements and other commitments which may result in a liability are notified to the Company Secretary in advance of any commitment being made;
- b contracts above specified thresholds are advertised and awarded in accordance with rules set out in these instructions;
- c no order shall be issued for any item or items to any firm which has made an offer of gifts, reward or benefit to directors or employees, other than:
 - i isolated gifts of a trivial character or inexpensive seasonal gifts, such as calendars;
 - ii conventional hospitality, such as lunches in the course of working visits;
- d no requisition/order is placed for any item or items for which there is no budget provision unless authorised by the Company Secretary on behalf of the Chief Executive;
- e all goods, services, or works are ordered on an official order except works and services executed in accordance with a contract and purchases from petty cash or on purchasing cards;
- f verbal orders must only be issued very exceptionally - by an employee designated by the Chief Executive and only in cases of emergency or urgent necessity. These must be confirmed by an official order and clearly marked "confirmation order";
- g orders are not split or otherwise placed in a manner devised so as to avoid the financial thresholds;
- h goods are not taken on trial or loan in circumstances that could commit the Company to a future uncompetitive purchase;
- i changes to the list of directors/employees authorised to certify invoices are notified to the Company Secretary;

- k purchases from petty cash are restricted in value and by type of purchase in accordance with instructions issued by the Company Secretary;
- l petty cash records are maintained in a form as determined by the Director of Finance;
- m orders are not required to be raised for suppliers that are included on the exemptions list. Financial Management are responsible for managing and reviewing this list. Payments must be authorised in accordance with the delegated limits set for non-pay;

11.2.8 Under no circumstances should goods be ordered through the Company for personal or private use.

12. External borrowing and investments

12.1 External borrowing

External borrowing includes loans to fund capital investment and working capital facilities.

The Company Secretary will advise the Board concerning the Company's ability to pay interest on, and repay, both the originating capital debt and any proposed new borrowing, in line with agreements agreed with the LLP Partnership deed members. The Company Secretary is also responsible for reporting periodically to the Board on:

- i Debt service cover ratio and compliance; and
- ii updates on all working capital facilities.

Any application for a loan, overdraft, working capital facilities will only be made by the Company Secretary or by an employee so delegated by her. The use of any such facilities will only be undertaken in line with SFI 5.4.1.

The Company Secretary must prepare detailed procedural instructions concerning applications for loans, overdrafts, working capital facilities.

All borrowings should be kept to the minimum period of time possible, consistent with the overall cash flow position.

All long term borrowing must be consistent with the plans outlined in the current Business Plan and in line with SFI 5.4.1.

12.2 Investments

12.4.1 Temporary cash surpluses must be held only in such public or private sector investments as authorised by the Board.

12.4.2 The Company Secretary is responsible for advising the Board on investments and shall report periodically to the Board concerning the performance of investments held.

12.4.3 The Company Secretary will prepare detailed procedural instructions on investment operations and on the records to be maintained.

13. Capital and asset management

13.1 Investment

13.1.1 The Chief Executive, through delegation to the Company Secretary:

- a shall ensure that there is an adequate appraisal and approval process in place for determining capital and revenue expenditure priorities and the effect of each proposal upon business plans;
- b is responsible for the management of all stages of capital and revenue schemes and for ensuring that schemes are delivered on time and to cost;
- c shall ensure that the capital investment is not undertaken without the availability of resources to finance all revenue consequences including the necessary approvals by members of the LLP Partnership deed in line with SFI 5.4.1.

13.1.2 For capital expenditure proposals the chief executive shall ensure:

- a that a business case is produced setting out:
 - i the purpose for the case with full risk analysis;
 - ii an option appraisal of potential benefits compared with known costs to determine the option with the highest ratio of benefits to costs;
 - iii that the Company Secretary has certified professionally to the costs and revenue consequences detailed in the business case.

13.1.3 The Company Secretary shall assess on an annual basis the requirement for the operation of the construction industry tax deduction scheme in accordance with Inland Revenue guidance.

13.1.4 The Company Secretary shall issue procedures for the regular reporting and approval of expenditure and commitment against authorised expenditure.

13.1.5 The Company Secretary, or through appropriate delegation, shall manage arrangements governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes.

13.2 Asset registers

13.2.1 The Chief Executive is responsible for the maintenance of registers of assets, with delegated responsibility to the Company Secretary to verify the form of any register and the method of updating, and arranging for a physical check of assets against the asset register to be conducted once a year.

13.3 Security of Assets

13.3.1 The overall control of fixed assets is the responsibility of the Chief Executive.

13.3.2 Asset control procedures (including fixed assets, cash, cheques, negotiable instruments, and donated assets) must be approved by the Company Secretary.

13.3.3 All discrepancies revealed by verification of physical assets to fixed asset register shall be notified to the Company Secretary.

13.3.4 Whilst each employee has a responsibility for the security of property of the company, it is the responsibility of directors and senior employees in all disciplines to apply such appropriate routine security practices in relation to property as may be determined by the Board. Any breach of agreed security practices must be reported in accordance with agreed procedures.

13.3.5 Any damage to the Company's premises, vehicles and equipment, or any loss of equipment, stores or supplies must be reported by directors and employees in accordance with the procedure for reporting losses.

13.3.6 Where practical, assets should be marked as Company property.

14. Stores and receipt of goods

14.1 General position

14.1.1 Stores, defined in terms of controlled stores and departmental stores (for immediate use) should be:

- a kept to a minimum (excluding bulk purchasing stock holding);
- b subjected to at least an annual stock take;
- c valued at the lower of cost and net realisable value.

14.2 Control of stores, stocktaking, condemnations and disposal general position

14.2.1 Subject to the responsibility of the Company Secretary for the systems of control, overall responsibility for the control of stores shall be delegated to an employee by the Chief Executive.

14.2.2 The responsibility for security arrangements and the custody of keys for any stores and locations shall be clearly defined in writing by the designated managers. Wherever practicable, stocks should be marked as health service property.

14.2.3 The Company Secretary shall set out procedures and systems to regulate the stores including records for receipt of goods, issues, returns to stores,

losses and materials management.

14.2.4 Stocktaking arrangements shall be agreed with the Company Secretary and there shall be a physical check covering all items in store at least once a year.

14.3 Receipt of goods

14.3.1 A delivery note shall be obtained from the supplier at the time of delivery and shall be signed by the person receiving the goods. All goods received shall be checked, by the appropriate department, as regards quantity and or weight and inspected as to quality and specification. Instructions shall be issued to staff covering the procedures to be adopted in those cases where a delivery note is not available.

14.3.2 All goods received shall be entered onto an appropriate goods received or stock record on the day of receipt. Further where the goods received are found to be unsatisfactory, or short on delivery, they shall only be accepted on the authority of the designated officer and the supplier shall be notified immediately.

14.4 Issue of stocks

14.4.1 The issue of stocks shall be supplied by an authorised requisition note and a receipt for the stock issued shall be returned to the designated officer. Where a 'topping up' system is used, a record shall be maintained as approved by the Company Secretary. Regular comparisons shall be made of the quantities issued to wards and departments and an explanation recorded of significant variances.

14.4.2 All transfers and returns shall be recorded on forms/systems provided for the purpose and approved by the Company Secretary.

15. Disposals and condemnations, losses and special payments

15.1 Disposals and condemnations

15.1.1 The Company Secretary must prepare detailed procedures for the disposal of assets including condemnations, and ensure that these are notified to managers.

15.1.2 When it is decided to dispose of a Company asset, the head of department or authorised deputy will determine and advise the Company Secretary of the estimated market value of the item, taking account of professional advice where appropriate. All steps should be taken to ensure that such assets are appropriately decontaminated and that all patient identifiable information is erased.

15.1.3 All unserviceable articles shall be:

- a condemned or otherwise disposed of by an employee authorised for that purpose by the Company Secretary;
- b recorded by the condemning officer in a form approved by the Company Secretary which will indicate whether the articles are to be converted,

destroyed or otherwise disposed of. All entries shall be confirmed by the countersignature of a second employee authorised for the purpose by the Company Secretary.

15.1.4 The condemning officer shall satisfy himself as to whether or not there is evidence of negligence in use and shall report any such evidence to the Company Secretary who will take the appropriate action.

15.2 Losses and special payments

15.2.1 The Company Secretary must prepare procedural instructions on the recording of and accounting for condemnations, losses, and special payments. The Company will adopt and adhere to the principles of the South Tees FT Counter Fraud Policy.

15.2.2 In cases of fraud and corruption, the Company Secretary must immediately inform the relevant LCFS and both the internal and external auditors.

15.2.3 Where a criminal offence is suspected involving theft or arson, such cases will be reported to management, and the police will be informed in accordance with the Company's security policy.

15.2.4 For losses apparently caused by theft, arson, neglect of duty or gross carelessness, where the value is in excess of £5,000, the Company Secretary must immediately notify:

- a the Board;
- b the external auditor; and
- c the Director of the Internal Audit provider.

15.2.5 The Board shall approve the writing-off of losses and special payments in accordance with the Scheme of Delegation.

15.2.6 The Company Secretary shall be authorised to take any necessary steps to safeguard the Company's interests in bankruptcies and liquidations.

15.2.7 For any loss, the Company Secretary should consider whether any insurance claim can be made.

15.2.8 The Company Secretary shall maintain a losses and special payments register in which write-off action is recorded.

16. Information management and technology

16.1 Responsibilities and duties of the Company Secretary

16.1.1 The Company Secretary is responsible for the accuracy and security of the computerised financial data of the Company and compliance with the Data

Protection Act 1998 and the Computer Misuse Act 1990. The Company will adopt and adhere to South Tees FT policies in respect of these provisions, and seek advice where necessary around any issues relating to the accuracy and security of computerised financial data.

16.3 Risk Assessment

The Chief Executive and Company Secretary shall ensure that information risks to the Company arising from the use of IT are effectively identified and considered and appropriate action taken to mitigate or control risk. This shall include the preparation and testing of appropriate business continuity and disaster recovery plans.

17. Patients property

17.1 The Company has a responsibility to provide safe custody for money and other personal property (hereafter referred to as "property") handed in by patients.

17.2 Where patients' property or income is received for specific purposes and held for safekeeping the property or income shall be used only for that purpose, unless any variation is approved by the donor or patient in writing.

18. Risk Management and Assurance

18.1 Programme of Risk Management

The Chief Executive shall ensure that the Company has appropriate arrangements for risk management.

Policy Agreement / Approval

The following groups/ individuals have reviewed and agreed this procedural document

Final Approved by	Date Agreed	Date for Review
Board of Directors	04/07/2017	March 2019

CORPORATE GOVERNANCE

Document No: CG04

DECISION RESERVED FOR THE BOARD OF DIRECTORS AND SCHEME OF DELEGATION

TITLE	Decision Reserved for the Board of Directors and Scheme of Delegation (combined)
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Author/lead responsible for policy:	Chairman and Chief Executive
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Amendments and Additions	Updated Decision Reserved for the Board of Directors and Scheme of Delegation for South Tees Hospitals NHS Foundation Trust
Replaces/supersedes:	Scheme of Delegation – CG05 Decisions Reserved for the Board of Directors for South Tees Hospitals NHS Trust – CG04
Associated Policies:	Standing Orders Standing Financial Instructions

Issued by:



Chief Executive

**DECISION RESERVED FOR THE BOARD OF
DIRECTORS
AND
SCHEME OF DELEGATION**

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DECISION RESERVED FOR THE BOARD OF DIRECTORS AND SCHEME OF DELEGATION

1 Introduction

- 1.1 The NHS Foundation Trust Code of Governance requires that there should be a formal schedule of matters specifically reserved for decision by the Board of Directors. This document sets out the powers reserved to the Board of Directors and the Scheme of Delegation including financial limits and approval thresholds. Notwithstanding any specific delegation, the Board of Directors remains accountable for all of its functions, including those which have been delegated. Therefore the Board of Directors expect to receive information about the exercise of delegated functions to enable it to maintain a monitoring role.
- 1.2 The Board of Directors (the Board) may make arrangements for the exercise of any of its functions by a committee, sub-committee or by a Director of the Trust.
- 1.3 All powers of the Trust which have not been retained as reserved by the Board of Directors or delegated to a Board Committee shall be exercised on behalf of the Board of Directors by the Chief Executive or other Executive Directors. The Scheme of Delegation identifies any functions which the Chief Executive shall perform personally and those delegated to other directors or officers. All powers delegated by the Chief Executive can be re-assumed by him/her should the need arise.

2 Purpose

- 2.1 The purpose of this document is to define the control framework set by the Board for committing trust resources. The Board reserves certain matters to itself which are set out in the Schedule of Matters Reserved to the Board. The Scheme of Delegation

identifies which powers and functions the Chief Executive shall perform personally and those which he has delegated to other Directors and Officers.

- 2.2 All powers delegated by the Chief Executive can be re-assumed by him/her should the need arise. In the absence of the Chief Executive the powers of the Chief Executive are delegated to the Deputy Chief Executive.
- 2.3 The Scheme of Delegation shows only the top level of delegation with the Trust. The Scheme is to be used in conjunction with the Trust's Standing Orders, Schedule of Matters Reserved to the Board, Standing Financial Instructions including the system of budgetary control and other established policies and procedures within the Trust.
- 2.4 In the absence of a director or officer to whom powers have been delegated those powers shall be exercised by that Director or Officer's superior unless alternative arrangements have been approved by the Board. If the chief Executive is absent, powers delegated to him may be exercised by the Director who has been duly authorised to act up for him taking appropriate advice from the Chairman.

3 Scope

- 3.1 To ensure that all staff, particularly budget managers and authorised signatories are aware of their authorities and responsibilities for compliance with the relevant procedures.
- 3.2 The Scheme of Delegation is consistent with the NHS Code of Conduct and Accountability and NHS Improvement's Code of Governance. Directors and Officers are reminded that powers are delegated to them on the understanding that they would not exercise delegated powers in a manner which in their judgement was likely to be a cause for public concern. The Code of Conduct of Accountability in the NHS and the Code of Governance sets out the core standards of conduct expected of NHS managers.
- 3.2 Provide details of delegated limits to all officers holding responsibilities. Budget Holders agree to operate within the budget limit and within the delegated limits as outlined in this document. It is their responsibility to manage within their budget and to identify any changes to the budget assumptions surrounding activity, timing and staffing issues which may result in changes to financial risk. If a proposed transaction is beyond their authority and outside the Annual Plan, it should be referred to their manager. Failure to do so may result in disciplinary action.
- 3.3 The document forms part of the Trust's corporate governance framework, which is the regulatory framework for the business conduct of the Trust within which all Trust officers are expected to comply. The aim is not to create bureaucracy but to protect the

Trust's interests and to protect staff from any accusation that they have acted less than properly. It does this by ensuring that all staff, particularly budget managers and authorised signatories are aware of their authorities and responsibilities for compliance with the relevant procedures. The key documents in this framework include the following and should be read in conjunction with the Decisions Reserved for the Board of Directors and Scheme of Delegation:

Standing Orders
Standing Financial Instructions

4 Principles of Reserved and Delegated Powers

4.1 Principles that are followed by the Scheme of Delegation.

There is no spend beyond authorised limits except with the approval as appropriate
The business case process is mandatory.

4.2 Emergency Powers

The powers which the Board has retained to itself may in emergency be exercised by the Chief Executive and the Chair after having consulted at least 2 non-executive directors.

The exercise of such powers by the Chief Executive and the Chair shall be reported to the next formal meeting of the Board for ratification.

4.3 Delegation to Committees

The Board shall agree that from time to time for the delegation of executive powers to be exercised by committees or sub committees, which it has formally constituted. The constitution and terms of reference of these committees, or sub committees, and their specific executive powers shall be approved by the board.

4.4 Delegation to Officers

Those functions of the Trust which have not been retained as reserved by the Board or delegated to an executive committee or sub-committee shall be exercised on behalf of the Board by the Chief Executive.

4.5 Role of the Chief Executive

The Chief Executive shall prepare a Scheme of Decisions Reserved to the Board and Scheme of Delegation identifying their 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, subject to any amendment agreed during the Board discussion.

5 Governors' legal responsibilities

5.1 The Trust has a body of elected individuals that make up the Council of Governors. Governors have a number of legal rights and responsibilities. These include:

- a. The appointment or dismissal of the Chairman and Non-executive Directors
- b. The approval of the appointment of the Chief Executive
- c. At a general meeting the Council of Governors will:
 - receive the annual accounts annual report and Quality Report and annual audit letter from the external auditors
 - approve the remuneration and allowances and other terms and conditions of the office of the Chairman and Non-executive Directors
 - appoint or replace the Trust's auditor at a general meeting
- d. Providing the views of the Council of Governors to the Board of Directors for the purposes of the preparation by the Board of Directors of the document containing information as to the Trust's forward planning in respect of each Financial Year to be given to NHS Improvement.
- e. Receiving and considering the views of the Members on matters of significance to the future plans of the Trust
- f. Approval of the amended of the constitution
- g. Hold the Non-executive Directors individually and collectively to account for the performance of the Board of Directors
- h. Represent the interests of the NHS Foundation Trust members and the public served by the Trust
- i. Approving significant transactions that fall within the definition
- j. Appointment and removal of the External Auditors
- k. Approval of the increase of non- NHS income where it is 5% or more in any one year

6 Scheme of matters reserved for the Board

6.1 General enabling provision

The Board may determine any matter (for which it has delegated or statutory authority) it wishes in full session within its statutory powers, subject to any restrictions contained in the Trust's Constitution and/ or terms of the Licence.

6.2 Constitutional Powers

- a. To exercise all powers of an NHS foundation trust set out in the NHS Act 2006, subject to any restrictions in the Trust's Licence; enforcement undertakings given to regulators or as delegated in accordance with this Scheme of Delegation. (Constitution paragraph 4)
- b. Determine the composition of the Board of Directors (Constitution paragraph 24)
- c. Make available for inspection by members of the public the following: register of Members; register of members of the Council of Governors; register of interest of members of the Council of Governors; register of members of the Board of Directors; register of interests of members of the Board of Directors; Constitution; Licence; latest Annual Accounts and Auditor's report on them; latest Annual Report and Forward Plan; and any notice issued by the NHS Improvement under Section 52 of the NHS Act 2006.
- d. Appoint the Returning Officer
- e. Approve payment of expenses and remuneration to Returning Officer
- f. Make available for inspection by members of the public statements of nominated candidates and nomination papers.
- g. Approve and deliver to the Returning Officer a list of Members eligible to vote
- h. Retain documents relating to elections to the Council of Governors and make these for inspection by members of the public, subject to any restriction in the Election Rules.
- i. Approve proposals to amend the Constitution which must be approved by the Council of Governors.
- j. Specify Partnership Organisations
- k. Receive and determine disputes under the Constitution, including disputes between the Council of Governors and the Board of Directors.
- l. Present Annual Accounts, any reports of the Auditor on them and the Annual Report at the Annual General Meeting.
- m. Prepare the Annual Report
- n. Prepare the Forward Plan

6.3 Regulation and controls

- a. Approval, suspension, variation or amendment of Standing Orders, Decisions Reserved for the Board and Scheme of Delegation and Standing Financial Instructions for the regulation of its proceedings and business

- b. Approval of the Decisions Reserved for the Board and Scheme of Delegation from the Board to committees, sub committees and officers
- c. Requiring and receiving the Declaration of Directors' Interests which may conflict with those of the Trust and determining the extent to which that director may remain involved with the matter under consideration
- d. Requiring and receiving declaration of interest from officers which may conflict with those of the Trust.
- e. Approve arrangements relating to the discharge of the Trust's responsibilities as a bailer for patients' property
- f. Approval of the arrangements for dealing with complaints
- g. Adoption of the organisational structure, processes and procedures to facilitate the discharge of business by the Trust and to agree any modification there to
- h. To establish terms of reference and reporting arrangements of all committees established by the Board of Directors
- i. To receive reports from committees including those which the Trust is required to provide by the Secretary of State, Monitor or other regulatory body or regulation to establish and to take appropriate action thereon
- j. To confirm recommendations presented to the Board of Directors by the Trust's Committees
- k. Ratification of any urgent decisions taken by the Chairman in accordance with Standing Orders
- l. Approve the Trust's Major Incident Plan
- m. Prescribe the Financial and Performance reporting arrangement required by the Board of Directors
- n. Approval of arrangements relating to the discharge of the Trust's responsibility as a corporate trustee for funds received in trust and Funds Held on Trust
- o. Approval of the Trust's banking arrangements (SFI 7.1.2)
- p. Authorise use of the common seal of the Trust (SO13)
- q. Ratify or otherwise instances of failure to comply with Standing Orders (SO6.32)
- r. Discipline members of the Board of Directors or Officers who are in breach of statutory requirements or Standing Orders
- s. Call meetings of the Board of Directors (SO6.4)
- t. Resolve to require withdrawal of the press and public from meetings of the Board of Directors
- u. Approve minutes of the proceedings of the meetings of the Board of Directors (SO6.29)
- v. Resolve to adjourn any meeting of the Board of Directors
- w. Notify the Independent Regulator of Foundation Trusts and the Council of Governors of any major changes in the circumstances of the Trust which have made or could lead to a substantial change to its financial sustainability, healthcare delivery performance, or reputation and standing or which might otherwise affect the Trust's compliance with the terms of Authorisation.
- x. Approval of the Trust's Investment Policy and authorisation of institutes with which temporary cash surpluses may be held.

6.4 Appointments/ Dismissal

- a. The appointment and dismissal of Board Committees
- b. The appointment of the Vice Chairman in consultation with the Council of Governors
- c. The appointment of the Senior Independent Director in consultation with the Council of Governors
- d. Through the Remuneration Committee the appointment and appraisal of Executive Directors and the disciplinary procedures of the Trust
- e. The appointment of membership of the Board sub-committees
- f. The appointment of any representative body outside the organisation

6.5 Policy Determination

The Board of Directors will approve policies that require specific Board approval including:

- a. Management of Risk
- b. Fire Safety Policy
- c. Health and Safety Policy
- d. Security Policy

This is not an exhaustive list.

6.6 Strategic Plans and Budgets

- a. Define and approve the strategic aims and objectives of the Trust
- b. Approve strategic business plans incorporating a programme of investment in respect of the application of available financial resources
- c. Approve proposals for ensuring quality and safety and developing clinical governance in services provided by the Trust, having regard to any guidance issued by the Secretary of State
- d. Approve annually Trust budgets (SFI 5.1.2)
- e. Approve Business Cases for Investment in accordance with the Trust's investment policy
- f. Approve final business cases for the use of private finance for capital schemes
- g. Approve proposals for action on litigation against or on behalf of the Trust
- h. Review use of NHSLA risk pooling schemes, commercial insurers and self-insurance (SFI 20.2)

6.7 General matters

- a. Ratify proposals for acquisition, disposal or change of use of land and/or buildings
- b. Joint ventures
- c. To agree actions on litigation against or on behalf of the Trust
- d. Any investment regardless of size of new activity or any disinvestment
- e. Purchase and maintain insurance against liability.
- f. Approve opening and closing of any bank or investment account (SFI 7.1.2)
- g. Approve proposals for action on litigation against or on behalf of the Trust

6.8 Financial and reporting management arrangements

- a. Continuous appraisal of the affairs of the Trust by means of the receipt of reports as it sees fit from directors, committees and officers of the Trust
- b. Receipt and approval of the Trust's Annual Report and Annual Accounts prior to submission to the regulator and Parliament
- c. Receipt and approval of the Annual Report and Accounts for funds held on trust prior to submission to the regulator and Parliament
- d. Receive the annual management letter from the external auditor and agree proposed action taking account of the advice, where appropriate, of the Audit Committee

7 Delegation to Committees

- 7.1 The Board shall agree from time to time to the delegation of executive powers to be exercised by committees or sub-committees, which it has formally constituted. The constitution and terms of reference of these committees, or sub-committees, and their specific executive powers shall be approved by the Board.
- 7.2 The Board shall determine the reporting requirements in respect of committees. In accordance with Standing Orders, committees may not delegate executive powers to sub-committees unless expressly authorised by the Board.
- 7.3 The following Committees are established in accordance with Standing Orders:
 - Audit Committee;
 - Additional Resources Committee;

- Quality Assurance Committee and Sub-groups;
- Finance and Investment Committee and Sub-groups (e.g. Investment Management Group);
- Remuneration Committee;
- Workforce Committee;
- Risk Committee.

8 Operational Management Board and Sub-groups Chief Executive as Accountable Officer

- 8.1 The Chief Executive has a responsibility not only to the Board but also to NHS Improvement and Secretary of State in the use made of Public Funds and Assets that they control.
- 8.2 The essence of the Accountable Officer role is to see that the functions of the Trust are carried out in a way which ensures the proper stewardship of public money and assets and that funds are only applied to the extent and for the purpose authorised by Parliament.
- 8.3 The Accountable Officer is responsible for the propriety and regularity of public finances in the NHS, for the keeping of proper accounts, for prudent and economical administration, for the avoidance of waste and extravagance and for the efficient and effective use of all resources and to ensure that the Trust's officers abide by these general requirements.
- 8.4 The Chief Executive should ensure that the Trust has in place effective management systems which safeguard public funds and should assist the Chair to implement the requirements of Corporate Governance as exemplified in the Codes of Conduct and Accountability.

9 Chief Executive Responsibilities

- 9.1 The Chief Executive shall determine which functions will be performed personally and shall nominate officers to undertake the remaining functions for which they will still retain accountability to the Board.
- 9.2 The Chief Executive shall prepare the Scheme of Delegation identifying their proposals which shall be considered and approved by the Board. The Chief Executive shall periodically review the Scheme proposing any appropriate amendments which shall be considered and approved by the Board.
- 9.3 Nothing in the Scheme shall release the Director of Finance or other Director from their accountability to provide information and advice in accordance with statutory requirements. Other than this the Director of Finance shall be accountable to the Chief Executive for financial operational matters.

9.4 Nothing in the Scheme shall release the Chief Executive from their responsibilities as Accountable Officer. As Accountable Officer the Chief Executive is accountable to the Independent Regulator for the funds entrusted to the Trust.

9.5 The arrangements made by the Board as set out in the Scheme shall have effect as if incorporated in Standing Orders.

10 Caution over the Use of Delegated Powers

10.1 Powers are delegated to directors and officers on the understanding that they would not exercise delegated powers in a manner which in their judgement was likely to be a cause for public concern.

11 Directors' Ability to Delegate their own Delegated Powers

11.1 The Scheme of Delegation shows the powers delegated to directors and officers and is to be used in conjunction with the system of budgetary control and other established procedures within the Trust.

12 Absence of Directors or Officer to Whom Powers have been delegated

12.1 In the absence of a director or officer to whom powers have been delegated those powers shall be exercised by that director or officer's superior unless alternative arrangements have been approved by the Board. If the Chief Executive is absent, powers delegated to them may be exercised by the Chair after taking appropriate advice from the Director of Finance.

12.2 The Chief Executive, in consultation with the Chair, may authorise any person to act on their behalf and exercise such delegated powers across the full range of duties carried out by the Chief Executive.

13 Delegation to Officers

13.1 Standing Orders and Standing Financial Instructions set out in some detail the financial responsibilities of the Chief Executive, the Director of Finance and other Directors. The Appendix details the delegation set out by Standing Orders and Standing Financial Instructions together with associated delegated limits.

13.2 The Scheme only relates to delegation by the Board to Directors and certain other specific matters referred to in Standing Orders and Standing Financial Instructions.

Appendix 1 - Delegation from Standing Orders

Standing Order Reference	Delegated To	Authorities/Duties Delegated
2.1	Chairman	Final authority in interpretation of Standing Orders (SOs).
5.7	Council of Governors	Appointment of Chairman and Non-executive Directors.
6.5	Chairman and one third of Board members	Call meetings.
6.12	Chairman	Chair all Board meetings and associated responsibilities.
6.22	Chairman	The Decision of the Chairman is final in matters of dispute between the Board of Directors and Council of Governors.
6.37	Board	Variation or amendment of Standing Orders.
7.3	Board	Formal delegation of powers to sub committees or joint committees and approval of their constitution and terms of reference.
7.2	Chairman and Chief Executive	The powers which the Board has retained to itself within these Standing Orders may in emergency be exercised by the Chair and Chief Executive after having consulted at least two Non-executive Directors.
7.5	Chief Executive	The Chief Executive shall prepare a Scheme of Delegation identifying his/her proposals that shall be considered and approved by the Board, subject to any amendment agreed during the discussion.
7.7	All	Disclosure of non-compliance with Standing Orders to the Chief Executive as soon as possible.
9.1	Board	Declarations of Interests.
9.9	Chief Executive	Maintain Register(s) of Interests. (devolved to the Company secretary)
11.1	All Staff	Comply with the Trust's Standards of Business Conduct.
11.7	All	Disclose relationship between self and candidate for staff appointment. (Chief Executive to report the disclosure to the Board.)
13.1	Chief Executive	Keep seal in safe place and maintain a register of sealing (devolved to the Company Secretary).
14.1	Chief Executive	Approve and sign all documents which will be necessary in legal proceedings.

Appendix 2 - Delegation from Standing Financial Instructions

SFI Reference	Delegated To	Authorities/Duties Delegated
1.1.2	Director of Finance	Approval of all financial procedures.
1.1.3	Director of Finance	Advice on interpretation or application of SFIs.
1.2	All members of the Board and employees	Have a duty to disclose any non-compliance with these Standing Financial Instructions to the Director of Finance and non-compliance with Standing Orders to the Chief Executive as soon as possible.
3.	Chief Executive	Responsible as the Accountable Officer to ensure financial targets and obligations are met and has overall responsibility for the System of Internal Control.
3.	Chief Executive and Director of Finance	Accountable for financial control but will, as far as possible, delegate their detailed responsibilities.
3.	Chief Executive	To ensure all Board members, officers and employees, present and future, are notified of and understand Standing Financial Instructions, Standing Orders and the Scheme of Delegation.
3.	Director of Finance	Responsible for: <ul style="list-style-type: none"> a Implementing the Trust's financial policies and coordinating any action necessary to further these policies; b Maintaining an effective system of financial control, including ensuring detailed financial procedures and systems are prepared and documented; c Ensuring that sufficient records are maintained to explain Trust transactions and financial position; d Providing financial advice to members of Board and staff; e Maintaining such accounts, certificates etc. as are required for the Trust to carry out its statutory duties.
3.	All members of the Board and employees	Responsible for security of the Trust's property, avoiding loss, exercising economy and efficiency in using resources and conforming to Standing Orders, Standing Financial Instructions and financial procedures.
3.	Director of Human Resources and Head of Procurement	Ensure that any contractor or employee of a contractor who is empowered by the Trust to commit the Trust to expenditure or who is authorised to obtain income are made aware of these instructions and their requirement to comply with them.
4.1.1	Audit Committee	Provide independent and objective view on internal control and probity.
4.1.2	Chair of Audit Committee	Raise the matter at the Board meeting where Audit Committee considers there is evidence of ultra vires transactions or improper acts.
4.1.3	Director of Finance	Ensure an adequate internal audit service, for which he/she is accountable, is provided (and involve the Audit Committee in the selection process when/if an internal audit service provider is considered to be changed.)

SFI Reference	Delegated To	Authorities/Duties Delegated
4.2.2	Chief Executive and Director of Finance	Monitor and ensure compliance with SofS Directions on fraud and corruption including the appointment of the Local Counter Fraud Specialist.
4.2.4	Chief Executive and Director of Nursing	Monitor and ensure compliance with Directions issued by the Secretary of State for Health on NHS security management including appointment of the Local Security Management Specialist.
4.3.1	Director of Finance, Chief Executive and Director of HR	Decide at what stage to involve police in cases of misappropriation and other irregularities not involving fraud or corruption.
4.4	Director of Finance	Review, appraise and report in accordance with best practice on the system of internal control.
4.5	Audit Committee	Overseeing and ensuring value for money from External Audit.
5.1.1.	Chief Executive and Director of Finance	Compile and submit to the Board an Annual Plan which takes into account financial targets, significant assumptions and forecast of available resources.
5.1.2 & 5.1.3	Director of Finance	a Submit budgets to the Board for approval. b Monitor performance against budget; submit to the Board financial estimates and forecasts.
5.1.5	Director of Finance	Ensure adequate training is delivered on an ongoing basis to budget holders.
5.2.1	Chief Executive	Delegate budget to budget holders.
5.2.2	Chief Executive and Budget Holders	Must not exceed the budgetary total set by the Board.
5.3.1	Director of Finance	Devise and maintain systems of budgetary control.
5.3.2	Budget Holders	Each Budget Holder is responsible for ensuring that: a any planned or known overspending or reduction of income which cannot be met by virement is not incurred without the prior consent of the Board; b officers shall not exceed the budget limit set c the amount provided in the approved budget is not used in whole or in part for any purpose other than that specifically authorised; d no permanent employees are appointed without the approval of the Chief Executive other than those provided for within the available resources and workforce establishment as approved by the Board.
5.3.3	Chief Executive	Identify and implement cost improvements and income generation activities in line with the Annual Plan.
5.6.1	Chief Executive	Submit monitoring returns to the requisite organisation.

SFI Reference	Delegated To	Authorities/Duties Delegated
6	Director of Finance	Preparation of annual accounts and reports.
7.1	Director of Finance	Managing banking arrangements, including provision of banking services, operation of accounts, preparation of instructions and list of cheque signatories. (Board approves arrangements.)
8.	Director of Finance	Income systems, including system design, prompt banking, review and approval of fees and charges, debt recovery arrangements, design and control of receipts, provision of adequate facilities and systems for employees whose duties include collecting or holding cash.
8.2.3	All employees	Duty to inform Director of Finance of money due from transactions which they initiate/deal with.
9.	Chief Executive and Director of Finance	Tendering and contract procedure.
9.4.3	The Chair, Chief Executive and Director of Finance	Waive formal tendering procedures.
9.4.3	Chief Executive	Report waivers of tendering procedures to the Audit Committee and maintain a record of reasons where competition / formal tendering procedures waived (performed by the Company secretary).
9.5.2	Chief Executive (performed by the Company Secretary)	Responsible for the receipt, endorsement and safe custody of tenders received.
9.5.3	Chief Executive (performed by the Company Secretary)	Shall maintain a register to show each set of competitive tender invitations despatched.
9.5.4	Chief Executive and Director of Finance	Where one tender is received will assess for value for money and fair price.
9.5.6	Chief Executive	No tender shall be accepted which will commit expenditure in excess of that which has been allocated by the Trust and which is not in accordance with these Instructions except with the authorisation of the Chief Executive.
9.6.2	Chief Executive	The Chief Executive or his nominated officer should evaluate the quotation and select the quote which gives the best value for money.
9.6.4	Chief Executive or Director of Finance	No quotation shall be accepted which will commit expenditure in excess of that which has been allocated by the Trust and which is not in accordance with these Instructions except with the authorisation of the Chief Executive or Director of Finance.
9.9	Chief Executive and Director of Finance	Shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector.

SFI Reference	Delegated To	Authorities/Duties Delegated
9.9	Board	All PFI proposals must be agreed by the Board.
9.11	Chief Executive	The Chief Executive shall nominate officers with delegated authority to enter into contracts of employment, regarding staff, agency staff or temporary staff service contracts.
9.13	Chief Executive	The Chief Executive shall be responsible for ensuring that best value for money can be demonstrated for all services provided on an in-house basis.
9.13.4	Chief Executive	The Chief Executive shall nominate an officer to oversee and manage in-house services performance on behalf of the Trust.
10.1.1	Board	Establish Remuneration and Terms of Service Committee.
10.1.2	Remuneration Committee	<ul style="list-style-type: none"> a Decide the appropriate remuneration and terms of service for the Chief Executive and other Executive Directors to ensure they are fairly rewarded having proper regard to the Trust's circumstances and any national agreements; b Monitor and evaluate the performance of individual Executive Directors; c Review the Trust's policies and procedures in relation to reward, performance management, retention, recruitment and redundancy.
10.1.3	Remuneration Committee	Report in writing to the Board its advice and its basis about remuneration and terms of service of Executive Directors.
10.2.2	Chief Executive	Approval of variation to funded establishment of any department.
10.3.1	Chief Executive	Authorise management to make arrangements within Human Resources procedures for Staff, including agency staff, appointments and re-grading.
10.4.1 and 10.4.2	Director of Finance	<p>Payroll:</p> <ul style="list-style-type: none"> a specifying timetables for submission of properly authorised time records and other notifications; b final determination of pay and allowances; c making payments on agreed dates; d agreeing method of payment; e issuing instructions (as listed in SFI 10.4.2).
10.4.3	Nominated Managers	Submit time records in line with timetable. Complete time records and other notifications in required form. Submitting termination forms in prescribed form and on time.
10.5.1	Director of Human Resources	<ul style="list-style-type: none"> a Ensure that all employees are issued with a Contract of Employment in a form approved by the Board and which complies with employment legislation and health and safety legislation; and b Deal with variations to, or termination of, contracts of employment.
11.1	Chief Executive	Determine, and set out, level of delegation of non-pay expenditure to budget managers, including a list of managers authorised to place requisitions, the maximum level of each requisition and the system for authorisation above that level.

SFI Reference	Delegated To	Authorities/Duties Delegated
11.1.2	Chief Executive	Set out procedures on the seeking of professional advice regarding the supply of goods and services
11.2.1	Requisitioner	In choosing the item to be supplied (or the service to be performed) shall always obtain the best value for money for the Trust. In so doing, the advice of the Trust's adviser on supply shall be sought.
11.2.2	Director of Finance	Shall be responsible for the prompt payment of accounts and claims.
11.2.3 and 11.2.4	Director of Finance	<ul style="list-style-type: none"> a Advise the Board regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; and, once approved, the thresholds should be incorporated in standing orders and regularly reviewed; b Be responsible for the prompt payment of all properly authorised accounts and claims; c Be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable; d Be responsible for ensuring that payment for goods and services is only made once the goods and services are received.
11.2.5	Appropriate Executive Director	Make a written case to support the need for a prepayment.
11.2.5	Director of Finance	Approve proposed prepayment arrangements.
11.2.5	Budget holder	Ensure that all items due under a prepayment contract are received (and immediately inform Director of Finance if problems are encountered).
11.2.6	Chief Executive	Authorise budget managers to be issued with official orders.
11.2.7	Managers and officers	Ensure that they comply fully with the guidance and limits specified by the Director of Finance.
11.2.8	Chief Executive or Director of Finance	Ensure that the arrangements for financial control and financial audit of building and engineering contracts and property transactions comply with the guidance contained within NHS Improvement Protection of Assets. The technical audit of these contracts shall be the responsibility of the relevant Director.
11.3	Director of Finance	Lay down procedures for payments to local authorities and voluntary organisations made under the powers of the NHS Act.
12.1	Director of Finance	The Director of Finance will advise the Board on the Trust's ability to pay dividend on PDC and report, periodically, concerning the PDC debt and all loans and overdrafts.
12.1	Board	Approve a list of employees authorised to make short term borrowings on behalf of the Trust. (This must include the Chief Executive and Director of Finance)
12.1	Director of Finance	Prepare detailed procedural instructions concerning applications for loans and overdrafts.

SFI Reference	Delegated To	Authorities/Duties Delegated
12.4.2	Director of Finance	Will advise the Board on investments and report, periodically, on performance of same.
12.4.3	Director of Finance	Prepare detailed procedural instructions on the operation of investments held.
13.1.1 and 13.1.2	Chief Executive	Investment programme: a ensure that there is adequate appraisal and approval process for determining capital and revenue expenditure priorities and the effect that each has on plans; b responsible for the management of capital and revenue schemes and for ensuring that they are delivered on time and within cost; c ensure that capital investment is not undertaken without availability of resources to finance all revenue consequences; d ensure that a business case is produced for each proposal.
13.1.2	Director of Finance	Certify professionally the costs and revenue consequences detailed in the business case for capital investment.
13.1.3	Director of Finance	Issue procedures for management of contracts involving stage payments.
13.1.4	Director of Finance	Assess the requirement for the operation of the construction industry taxation deduction scheme.
13.1.5	Director of Finance	Issue procedures for the regular reporting of expenditure and commitment against authorised capital expenditure.
13.1.6 and 13.1.7	Chief Executive	a Issue manager responsible for any capital scheme with authority to commit expenditure, authority to proceed to tender and approval to accept a successful tender. b Issue a scheme of delegation for investment management.
13.1.8	Director of Finance	Issue procedures governing financial management, including variation to contract, of capital investment projects and valuation for accounting purposes.
13.2.1	Chief Executive and Director of Finance	Maintenance of asset registers (on advice from Director of Finance).
13.2.5	Director of Finance	Approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.
13.2.7	Director of Finance	Calculate capital charges as specified by NHS Improvement/ Department Of Health.
13.3.1	Chief Executive	Overall responsibility for fixed assets.
13.3.2	Director of Finance	Approval of fixed asset control procedures.
13.3.4	Board, Executive Directors and all senior	Responsibility for security of Trust assets including notifying discrepancies to Director of Finance, and reporting losses in accordance with Trust procedure.

SFI Reference	Delegated To	Authorities/Duties Delegated
	staff	
14.2.1	Chief Executive	Delegate overall responsibility for control of stores (subject to Director of Finance responsibility for systems of control). Further delegation for day-to-day responsibility subject to such delegation being recorded. (Good practice to append to the scheme of delegation document.)
14.2.3	Director of Finance	Responsible for systems of control over stores and receipt of goods. (Report to Director of Finance evidence of overstocking)
14.2.1	Director of Pharmacy	Responsible for controls of pharmaceutical stocks.
14.2.1	Designated Estates Officer	Responsible for control of any stocks of fuel, oil and coal.
14.3.3	Head of Procurement	Responsible for control of goods, services and clinical stock.
14.2.2	Director of Nursing	Security arrangements and custody of keys.
14.2.3	Director of Finance	Set out procedures and systems to regulate the stores.
14.2.4	Director of Finance	Agree stocktaking arrangements.
14.2.5	Director of Finance	Approve alternative arrangements where a complete system of stores control is not justified.
14.2.6	Director of Finance	Approve system for review of slow moving and obsolete items and for condemnation, disposal and replacement of all unserviceable items.
14.2.6	Nominated officers	Operate system for slow moving and obsolete stock, and report to Director of Finance evidence of significant overstocking.
14.3.3	Chief Executive	Identify persons authorised to requisition and accept goods from NHS Supplies stores.
15.1.1	Director of Finance	Prepare detailed procedures for disposal of assets including condemnations and ensure that these are notified to managers.
15.2.1	Director of Finance	Prepare procedures for recording and accounting for losses, special payments and informing police in cases of suspected arson or theft.
15.2.2	All Staff	Discovery or suspicion of loss of any kind must be reported immediately to either Medical Directors/Operations Director and then inform the Chief Executive and Director of Finance.
15.2.4	Director of Finance	Where a criminal offence is suspected, Director of Finance must inform the police if theft or arson is involved. In cases of fraud and corruption Director of Finance must inform the relevant LCFS and CFSMS Regional Team in line with SoS directions.

SFI Reference	Delegated To	Authorities/Duties Delegated
15.2.3	Director of Finance	Notify CFSMS and External Audit of all frauds.
15.2.5	Director of Finance	Notify Board and External Auditor of losses caused by theft, arson, neglect of duty or gross carelessness (unless trivial).
15.2.6	Board	Approve write off of losses (within limits delegated by DH).
15.2.8	Director of Finance Director Of Quality Director of Estates, Facilities and Capital Planning Director of Nursing	Consider whether any insurance claim can be made.
15.2.9	Director of Finance	Maintain losses and special payments register.
16.1.1	Director of Finance	Responsible for accuracy and security of computerised financial data.
16.1.2	Director of Finance	Satisfy herself that new financial systems and amendments to current financial systems are developed in a controlled manner and thoroughly tested prior to implementation. Where this is undertaken by another organisation assurances of adequacy must be obtained from them prior to implementation.
16.2	Relevant officers	Consult with the Director of Digital Solutions and Information regarding proposals for information systems and IT developments.
16.3	Director of Finance	Ensure that contracts with other bodies for the provision of computer services for financial applications clearly define responsibility of all parties for security, privacy, accuracy, completeness and timeliness of data during processing, transmission and storage, and allow for audit review. Seek periodic assurances from the provider that adequate controls are in operation.
16.4	Director of Digital Solutions and Information	Ensure that risks to the Trust from use of IT are identified and considered and that business continuity plans are in place.
16.5.1	Director of Finance	Where computer systems have an impact on corporate financial systems satisfy herself that: a systems acquisition, development and maintenance are in line with corporate policies; b data assembled for processing by financial systems is adequate, accurate, complete and timely, and that a management trail exists; c Director of Finance and staff have access to such data; d Such computer audit reviews are being carried out as are considered necessary.
17.1	Director of Nursing	Responsible for ensuring patients and guardians are informed about patients' money and property procedures on

SFI Reference	Delegated To	Authorities/Duties Delegated
		admission.
17.3	Director of Finance	Provide detailed written instructions on the collection, custody, investment, recording, safekeeping, and disposal of patients' property (including instructions on the disposal of the property of deceased patients and of patients transferred to other premises) for all staff whose duty is to administer, in any way, the property of patients.
17.6	Directorate Managers	Inform staff of their responsibilities and duties for the administration of the property of patients.
18.1	Director of Finance	Shall ensure that each fund held on trust (charitable fund) is accounted for appropriately.
18.4.1	Director of Finance	Ensure all staff are made aware of the Trust policy on the acceptance of gifts and other benefits in kind by staff.
19	Chief Executive	Retention of document procedures.
20.1.1	Chief Executive	Risk management programme.
20.1.1	Board	Approve and monitor risk management programme.
20.2	Board	Decide whether the Trust will use the risk pooling schemes administered by the NHS Litigation Authority or self-insure for some or all of the risks (where discretion is allowed). Decisions to self-insure should be reviewed annually.
20.4.1 and 20.4.2	Director of Nursing	<p>a Where the Board decides to use the risk pooling schemes administered by the NHS Litigation Authority the Director of Nursing shall ensure that the arrangements entered into are appropriate and complementary to the risk management programme. The Director of Finance shall ensure that documented procedures cover these arrangements.</p> <p>b Where the Board decides not to use the risk pooling schemes administered by the NHS Litigation Authority for any one or other of the risks covered by the schemes, the Director of Finance shall ensure that the Board is informed of the nature and extent of the risks that are self-insured as a result of this decision. The Director of Finance will draw up formal documented procedures for the management of any claims arising from third parties and payments in respect of losses that will not be reimbursed.</p>
20.4.3	Director of Finance	Ensure documented procedures cover management of claims and payments below the deductible.

* Nominated officers and the areas for which they are responsible should be incorporated into the Trust's Scheme of Delegation document.

Appendix 3 - Detailed Scheme of Delegation

Delegated matters in respect of decisions which may have a far reaching effect must be reported to the Chief Executive. **The delegation shown below is the lowest level to which authority is delegated.** Delegation to lower levels is only permitted with written approval of the Chief Executive who will, before authorising such delegation, consult with other senior officers as appropriate. All items concerning finance must be carried out in accordance with Standing Financial Instructions and Standing Orders.

Delegated Matter	Authority Delegated to	Reference Documents
<p>1 Management of budgets</p> <p>Responsibility of keeping expenditure within budgets:</p> <ul style="list-style-type: none"> • At individual budget level (pay and non-pay). • At service level. • At Centre level. • For all other areas: 	<p>Budget Holders</p> <p>Service Managers or Clinical Directors</p> <p>Medical Directors or Operations Directors</p> <p>Director of Finance or relevant Directors of service</p>	<p>SFIs Section 5</p>
<p>2 Maintenance/operation of bank accounts</p>	<p>Director of Finance</p>	<p>SFIs Section 7</p>
<p>3 Non pay revenue and capital expenditure / requisitioning / ordering of goods and services:</p> <p>All must be within budgetary limits</p> <ul style="list-style-type: none"> • Requisition / Order/Pay <ul style="list-style-type: none"> i up to £10,000 ii £10,001 to £50,000 	<p>Clinical Directors/Service Managers</p> <p>As above counter signed by, Operations Director</p>	
<ul style="list-style-type: none"> iii £50,001 to £100,000 	<p>As above counter signed by Medical Director or other Executive</p>	

Delegated Matter	Authority Delegated to	Reference Documents
<ul style="list-style-type: none"> iv £100,001 - £250,000 v Over £250,001 • Pharmacy requisitions/orders and acceptance of Medicines <ul style="list-style-type: none"> i Up to £40,000 ii £40,000 to £70,000 iii £70,000 to £100,000 iv Over £100,001 to £250,000 iii Over £250,001 • Placing contracts <ul style="list-style-type: none"> i Contracts for goods and services and subsequent variations to contracts for procurement suppliers ii NHS to NHS contracts 	<p>Director</p> <p>As above counter signed by Director of Finance</p> <p>As above counter signed by Chief Executive</p> <p>The purchase of all medicines, including new drugs, should be under the control of Pharmacy and orders for medicines should not be made by anyone other than those listed below.</p> <p>Lead Pharmacist E and D, senior Pharmacists (band 8a and above)</p> <p>As above but countersigned by Director of Pharmacy or Operational Chief Pharmacist</p> <p>Director of Pharmacy or Operational Chief Pharmacist</p> <p>As above counter signed by the Director of Finance</p> <p>As above counter signed by Chief Executive</p> <p>Head of Procurement, or Head of Pharmacy or Director of Finance</p> <p>Chief Executive</p>	
<p>4 Investments</p> <ul style="list-style-type: none"> • Produce business cases for individual revenue schemes 	<p>Project sponsor</p>	<p>SFIs Section 13</p>

Delegated Matter	Authority Delegated to	Reference Documents
in accordance with the Trust's investment policy.		
i Revenue scheme (providing positive contribution) - up to £250,000	Centre Boards	
ii Revenue cost pressures - up to £100,000	Centre Boards	
iii Revenue scheme (providing positive contribution) - up to 1,000,000	Investment Management Group	
iv Revenue cost pressures - up to £500,000	Investment Management Group	
v Revenue scheme (providing positive contribution) - up to £5,000,000	Finance and Investment Committee prior to Trust Board ratification	
vi Revenue cost pressures - up to 1,000,000	Finance and Investment Committee prior to Trust Board ratification	
vii Revenue scheme (providing positive contribution) - Above £5,000,000	Board of Directors	
viii Revenue cost pressures - Above £1,000,000	Board of Directors	
<ul style="list-style-type: none"> • Produce business cases for individual capital schemes which require capital investment in accordance with the Trust's investment policy. 	Project sponsor	
i Capital value - up to £25,000	Centre Boards	
ii Capital value - up to £250,000	Capital Group	

Delegated Matter	Authority Delegated to	Reference Documents
<ul style="list-style-type: none"> iii Capital value - up to £500,000 iv Capital value - up to £1,000,000 v Capital value - Over £1,000,000 • Selection of architects, quantity surveyors, consultant engineers and other professional advisors within EU regulations. • Financial monitoring and reporting on all capital scheme expenditure. 	<ul style="list-style-type: none"> Investment Management Group Finance and Investment Committee prior to Trust Board ratification Board of Directors Chief Executive or Director of Finance Director of Finance 	
<ul style="list-style-type: none"> • Granting and termination of leases with annual rent <£250k. • Granting and termination of leases of >£250k. 	<ul style="list-style-type: none"> Director of Finance Chief Executive or Director of Finance, and Non-Executive Director 	
<p>5 Quotation, tendering and contract procedures</p> <ul style="list-style-type: none"> • Obtaining informal quotations for goods/services to demonstrate value for money and a common sense approach up to £10,000. • Obtaining 3 formal quotations for goods/services from £10,001 to £50,000. • Obtaining formal tenders for goods/services over £50,000 • Tenders to comply with OJEU requirements and thresholds. • Waiving of tenders exceeding £50,001. 	<ul style="list-style-type: none"> Budget holders / Clinical Directors and Service Managers in association with Procurement Budget holders /Clinical Directors and Operations Directors in association with Procurement Budget Holders / Clinical Directors and Operations Directors in association with Procurement Head of Procurement Chief Executive, The Chair and Director of Finance and reported to Audit Committee. 	<p>SFIs Sections 9</p>

Delegated Matter	Authority Delegated to	Reference Documents
<ul style="list-style-type: none"> • Authorise Single Tender action <ul style="list-style-type: none"> iii £50,001 to £250,000 iv Over £250,001 	<p>Chief Executive and Director of Finance</p> <p>Chief Executive and Director of Finance and one Executive Director and Chair and reported to next Board meeting</p>	
<ul style="list-style-type: none"> • Authorisation of Tenders <ul style="list-style-type: none"> iii £50,001 to £250,000 iv Over £250,001 <p>Following approval, contracts will be let through Procurement or Pharmacy to suppliers.</p> <p>NHS to NHS contracts</p>	<p>Director of Finance</p> <p>Chief Executive</p> <p>Head of Procurement or Director of Pharmacy</p> <p>Chief Executive or Director of Finance</p>	
<p>6 Setting of fees and charges</p> <ul style="list-style-type: none"> • Patient, overseas visitors, income generation and other patient related services. • Price of NHS contracts <p>Charges for all NHS contracts, be they block, cost per case, cost and volume, spare capacity.</p>	<p>Director of Finance or nominated Deputy</p> <p>Director of Finance</p>	
<p>7 Engagement of staff not on the establishment</p> <ul style="list-style-type: none"> • Non-medical consultancy staff where aggregate commitment in any one year (or total commitment) is less than £50,000. • Engagement of Trust's solicitors. 	<p>Chief Executive or Director of Finance</p> <p>Chief Executive or Executive Director</p>	

Delegated Matter	Authority Delegated to	Reference Documents
<ul style="list-style-type: none"> • Booking of bank, or agency Staff <ul style="list-style-type: none"> iii Medical locums iv Nursing v Clerical 	Operations Directors, Medical Directors or Executive Director	
8 Expenditure on charitable funds <ul style="list-style-type: none"> • Up to £5,000 per request. • £5,001 to £25,000 per request • £25,0001 to £100,000 per request • Above £100,000 per request. 	Fund-holder - subject to confirmation by Trust Fund Manager, that funds are available. As above and Operations Director As above and Medical Director and Director of Finance As above and Chief Executive	SFIs Section 18
9 Agreements/licences <ul style="list-style-type: none"> • Preparation and signature of all tenancy agreements / licences for all staff subject to Trust policy on accommodation for staff. • Extensions to existing leases. • Letting of premises to outside organisations. • Approval of rent based on professional assessment. 	Director of Estates, Facilities and Capital Planning Director of Finance Director of Estates, Facilities and Capital Planning Director of Estates, Facilities and Capital Planning	
10 Condemning and disposal Items obsolete, obsolescent, redundant, irreparable or cannot be repaired cost effectively:	Operations Director in association with Procurement and Director of Finance	SFIs Section 15
11 Losses, write-off and compensation	Chief Executive and Director of Finance (reported annually to the Audit Committee)	SFIs Section 15

Delegated Matter	Authority Delegated to	Reference Documents
<ul style="list-style-type: none"> • Losses and cash due to theft, fraud, overpayment and others- up to £50,000. • Fruitless payments (including abandoned capital schemes) - up to £250,000. 		
<ul style="list-style-type: none"> • Bad debts and claims abandoned, private patients, overseas visitors and other - up to £50,000. • Damage to buildings, fittings, furniture and equipment and loss of equipment and property in stores and in use due to: <ul style="list-style-type: none"> • Culpable causes (e.g. fraud, theft, arson) or other - up to £50,000. • Compensation payments made under legal obligation. • Extra Contractual payments to contractors up to £50,000. • Other up to £50,000 • All other payments and claims above set limits • Ex gratia payments for loss of personal effects <ul style="list-style-type: none"> • Up to £10,000 • £10,000 to a maximum of £50,000 • To admit liability and settle personal injury claims up to the deductible insurance limit - (up to £10,000 employers liability and up to £3000 public liability) • Write off debtors. 	<p>Director of Finance</p> <p>Director of Finance</p> <p>Director of Finance</p> <p>Director of Finance</p> <p>Director of Finance</p> <p>Director of Finance</p> <p>Board of Directors</p> <p>Head of Financial Governance and Control</p> <p>Director of Finance</p> <p>Head of Patient Safety, Information Governance and Legal Services</p> <p>Reported to Audit Committee for information</p>	

Delegated Matter	Authority Delegated to	Reference Documents
<p>12 Reporting of incidents to the police</p> <ul style="list-style-type: none"> • Where a criminal offence is suspected • Where a fraud is involved. 	<p>Director of Finance</p> <p>Director of Finance</p>	<p>SFIs Section 15</p>
<p>13 Receiving hospitality</p> <p>Applies to both individual and collective hospitality receipt items.</p>	<p>Declaration required in Trust's Hospitality Register</p>	
<p>14 Implementation of internal and external audit recommendations.</p>	<p>Executive Director responsible for the area of work concerned</p>	<p>SFIs Section 4</p>
<p>15 Maintenance and update on Trust financial procedures.</p>	<p>Director of Finance</p>	
<p>16 Investment of funds</p>	<p>Director of Finance</p>	<p>SFIs Section 12</p>
<p>17 Human resources and pay</p> <ul style="list-style-type: none"> • Pay and Conditions <ul style="list-style-type: none"> iii Agreement on variations to pay scales and conditions of service collectively iv Variation to individual terms and conditions v Approval of performance related pay schemes vi Changes to band / grading 	<p>Director of Human Resources and Remuneration Committee</p> <p>Director of Human Resources</p> <p>Remuneration Committee</p> <p>Director of Human Resources</p>	<p>SFIs Section 10</p>
<ul style="list-style-type: none"> • Establishments <ul style="list-style-type: none"> iii Authority to complete starter, leaver and variation forms 	<p>Line Managers</p>	

Delegated Matter	Authority Delegated to	Reference Documents
<ul style="list-style-type: none"> iv Authority to authorise new starter within establishment v Authority to approve additions to establishment • Human Resources Policies iii Development of new policies and variations to existing policies <ul style="list-style-type: none"> - With limited financial consequences - With significant financial consequences iv Application of policies and approval of leave etc. • Medical staff study leave iii Approval of policy and changes to policy iv Consultant v Speciality doctors vi Junior Doctors 	<ul style="list-style-type: none"> Line Managers Director of Finance Director of Human Resources Director of Human Resources and Remuneration Committee Line Managers Senior leadership team Medical Director Director of Post Graduate Medical Education Director of Post Graduate Medical Education 	
<ul style="list-style-type: none"> • Employment sanctions iii Development of policies and variations to existing policies <ul style="list-style-type: none"> - Significant changes - Updating and less significant changes iv Approval of policies specifically applying to Directors 	<ul style="list-style-type: none"> Senior Leadership Team Director of Human Resources Remuneration Committee 	

Delegated Matter	Authority Delegated to	Reference Documents
18 Authorisation of sponsorship deals	Medical Director, Director of Human Resources and Company Secretary	
19 Authorisation of research projects	Medical Director, Director of Human Resources and Company Secretary	
20 Authorisation of clinical trials	Medical Director, Director of Human Resources and Company Secretary	
21 Insurance policies and risk management.		SFIs Section 20
Determine insurance in accordance with Corporate Policy	Director of Nursing, Director of Quality and Director of Estates Facilities and Capital Planning with advice from the Director of Finance, for approval by the Board	
22 Patients & relatives complaints		
<ul style="list-style-type: none"> • Overall responsibility for ensuring that all complaints are dealt with effectively. 	Head of Patient Safety, Information Governance and Legal Services	
<ul style="list-style-type: none"> • Responsibility for ensuring complaints relating to a Centre are investigated thoroughly 	Head of Patient Safety, Information Governance and Legal Services	
<ul style="list-style-type: none"> • Medico-Legal Complaints Co-ordination of their management. 	Head of Patient Safety, Information Governance and Legal Services	
23 Relationships with press		
<ul style="list-style-type: none"> • Non-emergency general enquiries <ul style="list-style-type: none"> iii Within hours iv Outside hours 	Head of Communications/Engagement Duty Officer or Executive Director	
<ul style="list-style-type: none"> • Emergency <ul style="list-style-type: none"> iii Within hours 	Head of Communications/Engagement	

Delegated Matter	Authority Delegated to	Reference Documents
iv Outside hours	Duty Officer or on call Director	
24 Infectious diseases and notifiable outbreaks.	Medical Director and Infection control doctor(s)	
25 Extended role activities Approval of nurses to undertake duties/procedures which can properly be described as beyond the normal scope of nursing practice.	Chief Executive or Director of Nursing	Nurse / Midwives / Health Visitors Act Midwives Rules / Code of Practice UKCC Code of Professional Conduct
26 Patient services <ul style="list-style-type: none"> • Variation of operating and clinic sessions within existing numbers <ul style="list-style-type: none"> i. Temporary change ii. Permanent change iii • All proposed changes in bed allocation and use <ul style="list-style-type: none"> I. Temporary change II. Permanent change • Contract monitoring and reporting 	Clinical Director and Operations Director Chief Executive Patient Flow Manager Chief Executive Director of Finance	
27 Facilities for staff not employed by the Trust to gain practical experience Professional recognition, honorary contracts and insurance of medical staff, Work experience students.	Operations Director and Director of Human Resources	
28 Review of all statutory compliance legislation and health and safety requirements including control of substances	Medical Director & Director of Nursing	

Delegated Matter	Authority Delegated to	Reference Documents
hazardous to health regulations.		
29 Review of medicines inspectorate regulations.	Medical Director	
30 Review of compliance with environmental regulations, for example, those relating to clean air and waste disposal.	Chief Executive with advice from Director of Estates, Facilities and Capital Planning.	
31 Review of Trust's compliance with the Data Protection Act.	Head of Patient Safety, Information Governance and Legal Services	
32 Monitor proposals for contractual arrangements between the Trust and outside bodies.	Director of Finance	
33 Review the Trust's compliance with the Access to Records Act.	Head of Patient Safety, Information Governance and Legal Services and Data Protection officer	
34 Review of the Trust's compliance code of practice for handling confidential information in the contracting environment and the compliance with "safe haven" per EL 92/60.	Head of Patient Safety, Information Governance and Legal Services	
35 The keeping of a Declaration of Interests Register.	Chief Executive (performed by the Company Secretary)	SOs Section 9.9
36 Attestation of sealing in accordance with Standing Orders.	Chief Executive and Director of Finance	SOs Section 13
37 The keeping of a register of sealing.	Company Secretary	SOs Section 13
38 The keeping of the hospitality register.	Company Secretary	
39 Retention of records.	Chief Executive	SFIs Section 19
40 Clinical audit.	Clinical Directors and Medical Directors	
41 Engagement of the Trust's solicitors	All Board Directors and Company Secretary	

Policy Agreement / Approval

The following groups/ committees/individuals have reviewed and agreed this procedural document

Final Approved by	Date Agreed	Date for Review
Board of Directors	06/12/2016	September 2018

Board of Directors	
Agenda item	Agenda item 17, ENC 12
Title of Report	CQC action plan
Date of Meeting	3 rd September 2019
Presented by	Gill Hunt, Director of Nursing and Quality
Author	Ian Bennett, Head of Patient Safety and Quality
Approved by	Gill Hunt, Director of Nursing and Quality
Previous Committee/Group Review	
Purpose	<p>Approval <input type="checkbox"/> Decision <input type="checkbox"/></p> <p>Discussion <input checked="" type="checkbox"/> Information <input checked="" type="checkbox"/></p>
Alignment to Trust's Strategic Objectives	<p><input checked="" type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience</p> <p><input checked="" type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care</p> <p><input type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future</p> <p><input checked="" type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice</p> <p><input type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability</p>
Alignment to Board Assurance Framework	BAF ref 2.2 – ongoing compliance with the CQC
Legal/Regulatory Compliance Requirements (if applicable)	<ul style="list-style-type: none"> • Care Quality Commission • NHS Improvement • NHS England
Recommendation(s)	The Trust Board is asked to receive and note the content of this report and to support delivery of the action plan

1. Executive Summary

This paper details the action plan which has been developed following CQC's most recent inspection of the Trust which was carried out between the 15th January and the 23rd February 2019.

The action plan has been produced in partnership with senior leaders from across the organisation and covers all of the 'Must Do's and Should Do's' from the report. It has also been shared with both the CQC and the CCG.

An internal CQC oversight group has been established, with the first meeting being held in September. The oversight group will have trust wide representation from the centres and corporate services and will be chaired by the Director of Nursing and Quality.

This group will oversee the implementation of the action plan and seek assurance through supporting evidence and the underpinning action plans, reporting on progress to both the Operational Management Board and Quality Assurance Committee on a regular basis.

2. Recommendation

The Trust Board are asked to note the content of the report and support the implementation and delivery of the attached action plan, both within centres and as part of the CQC oversight group.

Background and Context


This action plan has been developed following CQC's most recent inspection of the Trust which was carried out between the 15th January and the 23rd February 2019.

The action plan has been produced in partnership with senior leaders from across the organisation and covers all of the 26 'Must Do's and 23 Should Do's' from the report. Detailed underpinning action plans have been embedded into this overarching CQC action plan, where these are still in development they will be embedded in due course.

An internal CQC oversight group has been established, which will have trust wide representation and will be chaired by the Director of Nursing and Quality. This group will oversee the implementation of the action plan and report on progress to both the Operational Management Board and the Quality Assurance Committee on a regular basis.

CQC ACTION PLAN: Trust wide, Must Do's and Should Do's

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
Trust wide					
The trust must ensure that there are effective systems and processes to identify, assess, monitor and mitigate risks	1. Undertake a review of governance processes from Board to Ward	1.1 Written report and recommendations	September 2019	Jeanette Hall (external consultant)	Gill Hunt (DoN)

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
relating to the health, safety and welfare of patients and staff; especially within critical care. (Reg 17)		1.2 Action plan to address recommendations to ensure a standard approach to governance in all directorates and centres with clear and consistent reporting and escalation processes	October 2019	Jeanette Hall (external consultant)	Gill Hunt (DoN)
	2. Improve recognition and reporting of patient safety incidents and ensure lessons learnt are embedded across the Organisation (as per 19/20 Quality Priority, see detailed action plan)  project_plan_Incident Reporting Final upd	2.1 All new employees to receive patient safety training including how to report using the Datix system	March 2019	Ian Bennett (Head of Quality and Patient Safety)	Gill Hunt (DoN)
		2.2 Re-launch the upgraded Datix system with associated communication and engagement plan	March 2020	Ian Bennett	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
		2.3 Increased the number of incidents reported in line with national reporting trends	December 2019	Ian Bennett	Gill Hunt
		2.4 Ensure all serious incidents are reported within 48 hours	May 2019	Ian Bennett	Gill Hunt
The Trust must ensure that there is effective engagement to seek and act on feedback for the purpose of continually evaluating and improving services; particularly in relation to improving engagement with	3. Undertake a summer survey of all staff	3.1 Complete survey	August 2019	Rachael Metcalf (HRD)	Siobhan McArdle (CEO)
	4. Utilise the Warwick Medical Engagement Scale to understand how engaged doctors feel in the work of the organisation	4.1 Complete review	September 2019	Rachael Metcalf	Siobhan McArdle
	5. CEO to attend x2 directorate meetings in all specialities annually	5.1 Meeting attendance evidenced by minutes	August 2019		Siobhan McArdle

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
all staff groups and external stakeholders including ensuring that senior managers are visible, accessible and provide the necessary support to staff. (Reg 17)	6. Quarterly one to one CEO and Clinical Director meetings	6.1 Meetings scheduled	April 2019		Siobhan McArdle
	7. Ensure effective communication between the Senior Medical Forum (SMF) and the Senior Leadership Team (SLT)	7.1 Review Terms of Reference	September 2019	Chair of the SMF	Medical Directors (MD's)
		7.2 Agree SLT frequency of attendance and standing agenda items	September 2019	Chair of the SMF	MD's
	8. Establish a multi-professional CEO led staff engagement group	8.1 Group established and monthly forums scheduled	June 2019		Siobhan McArdle
	9. Develop a staff engagement strategy based on findings of 3 & 4 in collaboration with the staff engagement group	9.1 Agree strategy and measures of success	December 2019	Rachael Metcalf	Siobhan McArdle

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
	10. Establish a regular Clinical Director (CD) forum	10.1 To strengthen the role of the CD and provide a regular forum with the Medical Directors and CEO to shape the strategic direction of the organisation, with a clear focus on patient safety and quality to ensure continuous improvement	May 2019		MD's
	11. Establish a quarterly Health Care Professions forum	11.1 To provide a regular forum for engagement and an opportunity to influence the strategic direction of the organisation	July 2019	Rob Goddard (Head of Professions)	Gill Hunt
	12. Ensure Non-Executive Directors and Governors have scheduled opportunities to engage with frontline staff and patients	12.1 Develop a programme of assurance visits including Outpatient Departments 15 Steps Challenge and PLACE assessments.	September 2019	Ian Bennett	Alan Downey (Chair)
	13. Ensure the Board of Directors access development in line with their responsibility as a Unitary Board	13.1 Review and implement a programme of Board Development sessions	September 2019	Company Secretary	Alan Downey

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
	14. Review the organisations approach to continuous improvement methodologies	14.1 Written review and recommendations	September 2019	Jennie Winnard (Director of Operations Education, Research & Innovation) & Ian Bennett	Andy Owens (Medical Director)
	15. Senior leaders to continue to engage with all ICS / ICP work streams	15.1 Evidence of leadership of work streams across the ICP and participation in all key clinical pathway redesign	March 2019		Siobhan McArdle
The trust must ensure that the quality of record keeping is consistent and that staff maintain accurate and contemporaneous records for all patients and that patient records on	16. Undertake monthly record keeping audits	16.1 Evidence that monthly record keeping audits have been completed	February 2019	Helen Day (Deputy Director of Nursing)	Gill Hunt
	17. Implement and monitor action plans following record keeping audit	17.1 Evidence that action plans have been developed and implemented to address actions required	February 2019	Helen Day	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
the wards are stored securely when unattended. (Reg 17)	18. Review the policy for the storage of patient records and ensure they are stored securely when unattended	18.1 Ensure all notes trolleys can be locked when unattended	October 2019	Helen Day	Gill Hunt
	19. Ensure that the compelling case for an electronic patient record as an essential component of delivering contemporary healthcare to support patient safety is made at regional and national level	19.1 Secure funding for an EPR	March 2020		Siobhan McArdle & Steven Mason (Director of Finance)
The trust must ensure that all risks within departments are recorded on the risk register. (Reg 17)	20. Review compliance with the risk management process from Ward to Board.	20.1 Review all directorate and centre risk registers to ensure they accurately reflect risks.	September 2019	Centre Operations Directors	Kevin Oxley (Director of Estates)/ Gill Hunt/Andy Owens
		20.2 Review the risk escalation process from directorate risk register to Board Assurance Framework	September 2019	Company Secretary	Kevin Oxley/Gill Hunt/Andy Owens

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
		20.3 Identify barriers to risk escalation, devise and implement a communication and engagement strategy to raise awareness of risk management and address barriers	September 2019	Company Secretary	Kevin Oxley/Gill Hunt/Andy Owens
The trust must ensure that it meets all aspects of the duty of candour regulation and that the trust policy is always followed. (Reg 20)	21. Review the duty of candour policy and process	21.1 Review of the duty of candour policy and associated processes completed	September 2019	Ian Bennett	Gill Hunt
		21.2 Include Duty of candour training in Trust induction for all new staff	March 2019	Ian Bennett	Gill Hunt
	22. Quarterly audit of compliance to be reported via the Patient Safety Sub Group	22.1 Quarterly audits to demonstrate compliance with duty of candour requirements completed.	May 2019	Ian Bennett	Gill Hunt
The trust must ensure that staff training compliance with mandatory training, especially resuscitation training, safeguarding children (Level 2)	23. Transfer the mandatory training recording system to ESR to ensure a robust and reliable system is in place	23.1 Scoping meeting to agree implementation plan and timeframes	July 2019	Rachael Metcalf	Siobhan McArdle
	24. Review of role essential training requirements	24.1 To ensure clear and appropriate training requirements for each specific staff group	August 2019	Education Leads	Rachael Metcalf

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
and safeguarding vulnerable adults (including Mental Capacity Act and Deprivation of Liberty Safeguards training) meets the trust target of 90%. (Reg 18)	25. Set improvement trajectories to achieve 90% compliance	25.1 Improvement trajectories to be monitored month on month to reach Trust wide compliance with 90% target by October 2019	October 2019	Centre Triumvirate and Corporate Directors	Rachael Metcalf
The trust must ensure that all staff have an up to date appraisal completed. (Reg 18)	26. Improvement trajectory set to reach target of 80% compliant	26.1 Improvement in compliance with appraisals month on month to reach target by September 2019	September 2019	Centre Triumvirate and Corporate Directors	Rachael Metcalf
		26.2 Monitor compliance and share monthly reports with all areas, escalating areas where support is needed	March 2019	HR Business Partners	Rachael Metcalf
	27. Launch the new appraisal and talent management framework	27.1 New documentation in place with associated communication / training plan	December 2019	HR Business Partners	Rachael Metcalf

CQC ACTION PLAN: Urgent & Emergency Care Centre & Friarage

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
Urgent and Emergency Services					
<p>The Trust must take action to ensure that the environment is suitable for the purpose being used and is secure and</p> <p>Compliant with current standards especially for paediatric patients and patients with mental health needs (Reg 12)</p>	<p>28. Ensure that the environment is suitable for the purpose and is compliant with paediatric standards</p>	<p>28.1 door access and swipe access in place across the Paediatric corridor in the Emergency Department JCUH</p>	<p>June 2019</p>	<p>Julie Suckling (Service Manager)</p> <p>Denise Foster (Facilities Manager)</p>	<p>Kevin Oxley</p>
		<p>28.2 Strategic overview of Trust position and plans for the future management of children in the Emergency Care setting in line with RCPYP is made explicit and documented, including the need for capital investment for a dedicated Paediatric ED</p>	<p>September 2019</p>	<p>Nick Athey (Clinical Director)</p>	<p>Adrian Clements (MD)</p>

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
		28.3 Evidence of risk and mitigation documented on the risk register and escalated	July 19	Nick Athey	Adrian Clements
	29. Ensure that the environment is suitable for the purpose and complaint with mental health needs	29.1 To complete a review of the mental health room to ensure it complies with appropriate quality standards	June 19	Julie Suckling	Adrian Clements
		29.2 Remove all ligature risks and procure suitable furniture within the mental health room	February 2019	Julie Suckling	Adrian Clements
		29.3 Commission and completion of minor works to ensure that the disabled toilet is ligature free	August 2019	Julie Suckling	Adrian Clements
The trust must take action to ensure that James Cook University hospital is able to meet all the requirements of the major trauma	30 Ensure action is taken to ensure that the Trust meets all the requirements of the Peer review major trauma standards	30.1 Appoint a Major Trauma Lead	June 2019	Laura Evans	Adrian Clements
		30.2 Review the GAP analysis against the major trauma standards	June 2019	Laura Evans	Adrian Clements

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
standards. (Reg 12)		30.3 Produce a business case	September 2019	Laura Evans	Adrian Clements
		30.4 Take through Trust process, including risk, mitigation and escalation, including system wide solutions	December 2019	Laura Evans	Adrian Clements
The trust must take action to ensure that staff have the required paediatric competencies at the urgent and emergency care services at Friarage hospital. (Reg 18)	31 Review the paediatric competencies of staff within the Urgent Treatment Centre at the Friarage to ensure they meet the requirements	31.1 Complete a review of paediatric competencies	June 2019	Sue Glendenning (Associate Director of Nursing)	Adrian Clements
		31.2 All staff are compliant with minimum standards for UTC	June 2019	Sue Glendenning	Adrian Clements
		31.3 All staff trained in PILS	June 2019	Sue Glendenning	Adrian Clements
		31.4 All staff trained in safeguarding	June 2019	Sue Glendenning	Adrian Clements


CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
		31.5 Training records sustained demonstrate compliance	October 2019	Sue Glendenning	Adrian Clements
		31.6 Nurse Practitioner's to complete paediatric physical assessment skills	October 2019	Sue Glendenning	Adrian Clements
The trust must ensure that there are at all times sufficient numbers of suitably skilled and qualified nursing and medical staff in line with best practice and national guidance. (Reg18)	32 Ensure establishments are evidence based and in line with national guidance	32.1 Complete a review of nursing establishment using the BEST tool, triangulated with benchmarking data, professional judgement, and NHSi validated methodology.	September 2019	Sue Glendenning Eileen Aylott (Assistant Director of Nursing Workforce)	Gill Hunt
		32.2 Carry out a review of the medical staffing model	October 2019	Nick Athey	Adrian Clements
		32.3 Review the AHP workforce model using available evidence	October 2019	Rob Goddard	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
		32.3 On completion of the workforce analysis produce an action plan to address identified issues above, document, escalate and mitigate as required.	October 2019	Nick Athey / Rob Goddard / Eileen Aylott / Sue Glendenning	Gill Hunt / Adrian Clements
		32.4 Monitor staffing levels daily in line with trust policy	February 2019	CD/SM and Matron	Adrian Clements / Gill Hunt
The trust should continue to ensure performance in national audits improves and that related action plans address all concerns highlighted.	33 Review the national audit process within the Centre to ensure it is aligned to the Clinical Audit Policy and agreed governance process	33.1 Complete a review of national audits relevant to the organisation	June 2019	Janice Worton (Quality Assurance Manager)	Andy Owens
		33.2 Complete a review within the Centres and agreed governance processes in place in order to track local compliance	June 2019	Lola Shobo (Quality Business Partner) / Nick Athey	Adrian Clements


CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
	34 Ensure action is put in place when results demonstrate that performance requires further action	34.1 Evidence of regular monitoring by the Centre to highlight further areas of work and progress	June 2019	Lola Shobo / Nick Athey	Adrian Clements
		34.2 Audit reports included in monthly directorate meetings and escalated through to clinical standards subgroup and Quality Assurance committee	August 2019	Lola Shobo / Nick Athey	Adrian Clements
The trust should ensure that if appropriate, patients are offered food and nutrition as required during the admission.	35 Ensure there is adequate food and drink supply in the ED	35.1 Ensure adequate food and drink is available for patients	June 2019	Sue Glendenning	Gill Hunt
		35.2 Outcome of intentional rounding for vulnerable patients	June 2019	Sue Glendenning	Gill Hunt
		35.3 Implement agreed action following analysis of intentional rounding findings	June 2019	Sue Glendenning	Gill Hunt


CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
	36 Patient fridge allocated with robust temperature monitoring	36.1 Regular spot checks to demonstrate compliance as part of ward managers and matrons assurance visits, reporting through centre governance	June 2019	Sue Glendenning	Gill Hunt
The trust should ensure that all patients have access to call bells.	37 Nurse in charge will be responsible for ensuring all patients have access to a call bell	37.1 Outcome of intentional rounding	June 2019	Sue Glendenning	Gill Hunt
		37.2 Implement agreed action following analysis of intentional rounding findings	June 2019	Sue Glendenning	Gill Hunt
		37.3 Regular spot checks to demonstrate compliance as part of ward managers and matrons assurance visits reporting through centre governance	June 2019	Sue Glendenning	Gill Hunt
The trust should ensure that all staff have access to multi-disciplinary debrief sessions following	38 Review the process for staff accessing debrief sessions following traumatic events and follow up support available where necessary	38.1 Evidence that multi-disciplinary MDT sessions have been completed following traumatic debriefs if required	June 2019	Sharon Raby (Matron) / Nick Athey	Adrian Clements


CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
traumatic events.		38.2 Evidence that Paediatric debrief occur in all SUDIC events	June 2019	Sharon Raby / Nick Athey	Adrian Clements
		38.3 Evidence of process embedded within HR, Incident reporting and SI policies and procedures	December 2019	Rachael Metcalf / Ian Bennett	Gill Hunt
		38.4 Evidence of Occupational health support offered to staff who may require it	December 2019	Jude Cooper (Occupational Health Service Manager)	Rachael Metcalf
The trust should ensure that safety huddles are carried out and recorded as per trust protocol	39 Review the safety huddle protocol and ensure safety huddles are conducted in accordance with the agreed protocol	39.1 Evidence to demonstrate that safety huddles are taking place the department as per agreed processes	May 2019	Sharon Raby	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
Critical care					
The trust must ensure that nurse staffing is in line with GPICS recommendations of 1:1 care for level three patients and 1:2 care for level two patients. (Reg 18)	40 Demand and capacity is systematically reviewed, alongside staffing rotas to ensure compliance with nurse to patient ratios (please see action plan)  Staffing action plan updated July 19 v2.x	40.1 Recruitment and retention action plan in place to recruit to full substantive establishment	January 2020	Lindsay Garcia (Nurse Consultant)	Adrian Clements / Gill Hunt
		40.2 Overtime, Extra Hours, Agency and NHSP are being utilised to ensure full staffing cohort on each shift.	February 2019	Lindsay Garcia	Adrian Clements / Gill Hunt
		40.3 Data submitted weekly to CQC to highlight staffing level and any dates of non-compliance are highlighted.	February 2019	Lindsay Garcia	Adrian Clements / Gill Hunt
The trust must review the role of supernumerary coordinators, the provision of clinical educators and the level of specialist pharmacy provision	41 Action taken to ensure supervisory coordinators are available in line with GPICS standards 24/7	41.1 Weekly report available	February 2019	Lindsay Garcia	Adrian Clements / Gill Hunt
	42 Clinical Educator posts available in line with GPICS standards of 0.46 across the whole critical care footprint.	42.1 Recruit an additional 2 WTE to vacant posts	June 2019	Lindsay Garcia	Adrian Clements / Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
in critical care so they are in line with GPICS recommendations (Reg 18)		42.2 Recruit to remaining 0.46 WTE	October 2019	Gemma Swan (Service Manager)	Adrian Clements / Gill Hunt
	43 Specialist Pharmacy posts available in line with GPICS standards	43.1 Staffing in post in line with GPICS standards	January 2020	Rob Goddard	Helen Jones
		43.2 Recruit to vacant 4.32 WTE posts	January 2020	Rob Goddard	Helen Jones
The trust must ensure that staff follow the appropriate IPC protocols to manage patients on the units with infections and to reduce the	44 Ensure all patients with a known infection are identified and isolated if a side room is available	44.1 Regular monthly audits of compliance with IPC Practice	February 2019	Sue Glendenning	Gill Hunt
		44.2 Delivery of IPC action plan	February 2019	Helen Day	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
number of units acquired cases of infections. (Reg 12)	45 Where isolation is not available Ensure all risk reduction strategies available are actioned and monitored  Critical Care - IPC action plan July 2019	45.1 Failure to isolate is reported and escalated	February 2019	Helen Day	Gill Hunt
		45.2 Evidence that all future plans and capital bids for critical care expansion include provision of adequate numbers of isolation facilities	December 2019	Gemma Swan / Steve Bonner (Clinical Director)	Adrian Clements / Steven Mason
The trust must ensure trust policy is followed in relation to stock checks and the recording of these checks, of controlled drugs. (Reg 12)	46 All critical care wards to ensure that controlled drugs are managed in line with the policy and that there is a consistent standard approach to this.	46.1 Ensure all areas are adhering to standard processes	February 2019	Sue Glendenning	Adrian Clements
		47 Complete standardised stock checks of controlled drugs	47.1 Audits undertaken monthly to demonstrate compliance	July 2019	Sue Glendenning
	47.2 Ensure recording of stock checks is standardised	February 2019	Sue Glendenning	Adrian Clements	

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
The trust must review incidents related to pressure damage and take appropriate action to reduce the numbers. (Reg 12)	48 Robust plan in place to reduce the number of pressure ulcers acquired in our care  TVN action plan critical care - July 20	48.1 Reduction in the number of trust acquired pressure ulcers	March 2019	Sue Glendenning	Gill Hunt
		48.2 Monthly audits of pressure ulcer damage and action plans implemented to address identified shortfalls	March 2019	Sue Glendenning	Gill Hunt
		48.3 Staff training completed on pressure ulcer prevention and management	February 2019	Sue Glendenning	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
<p>The trust must improve incident reporting and the mechanisms for sharing learning when incidents are reported. (Reg 12)</p> <div style="text-align: center;">  project_plan_Incident Reporting Final upd: </div>	<p>49 Improve recognition and reporting of patient safety incidents and ensure lessons learnt are embedded across the Organisation (as per 19/20 Quality Priority. (as per detailed action plan embedded below)</p>	<p>49.1 All new employees to receive patient safety training including how to report using the Datix system</p>	<p>March 2019</p>	<p>Ian Bennett</p>	<p>Gill Hunt</p>
		<p>49.2 Re-launch the upgraded Datix system with associated communication and engagement plan</p>	<p>March 2020</p>	<p>Ian Bennett</p>	<p>Gill Hunt</p>
		<p>49.3 Increased the number of incidents reported in line with national reporting trends</p>	<p>December 2019</p>	<p>Ian Bennett</p>	<p>Gill Hunt</p>
		<p>49.4 Ensure all serious incidents are reported within 48 hours</p>	<p>May 2019</p>	<p>Ian Bennett</p>	<p>Gill Hunt</p>

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
		49.5 Establish critical care MDT clinical governance meetings on a monthly basis	August 2019	Lolo Shobo	Adrian Clements
The trust must ensure that up to date critical care policies and guidance can be accessed by staff (Reg 12)	50 Embed all critical care policies and guidance which can be accessed by staff	50.1 Critical care staff to be made aware of location of all policies during induction	July 2019	Sue Glendenning	Adrian Clements
		50.2 Clinical educators to refresh existing staff on location of the policies	July 19	Sue Glendenning	Adrian Clements
The trust must improve the quality and safety of services by ensuring that capacity and demand is appropriately managed including following their own	51 Embed capacity and management planning with regard to elective patients	51.1 Capacity and management review completed weekly and elective patients are capped	February 2019	Gemma Swan	David Chadwick (MD)
		51.2 Provision for emergency capacity included in the bed management decisions on a daily basis	March 2019	Intensivist of the day	Adrian Clements

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
standard operating procedure in relation to elective patients requiring critical care beds after surgery. (Reg 17)	52 Embed the SOPs regarding elective patients requiring critical care beds	52.1 Share SOP at all team/service meeting within the centre	July 2019	Gemma Swan	David Chadwick
The trust must review the critical care outreach team capacity to ensure that there is adequate service provision for patients cared for outside of the unit requiring critical care support in line with best practice guidance. (Reg 17)	53 Review the capacity of the critical care outreach team in accordance with best practice guidance and ensure it meets the demands of the service	53.1 Critical care outreach establishment increased from 1 Practitioner - 24/7 to 2 Practitioners – 24/7 JCUH site in May 2019	May 2019	Sue Glendenning	Adrian Clements

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
The trust must review the findings of the national laparotomy report regarding the use of critical care beds and ensure appropriate actions are identified and taken. (Reg 17)	54 Review the findings of the national laparotomy report regarding the use of critical care beds	54.1 Review of the national laparotomy report completed	May 2019	Mr Venkat Kanakala (Consultant Surgeon)	David Chadwick
	55 Develop and implement an action plan to address issues highlighted from the review	55.1 Evidence that the action plan has been fully implemented and changes made where necessary to ensure appropriate action is taken.	October 2019	Mr Venkat Kanakala	David Chadwick
The senior management team must be assured that information reviewed on performance is accurate and reliable and they	56 Senior management team are assured that data submitted is accurate and reliable	56.1 Review Sources of data for ICNARC	March 2019	Lindsey Garcia / Steve Bonner	Adrian Clements
		56.2 Implement quarterly sign off process	March 2019	Lindsey Garcia / Steve Bonner	Adrian Clements

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
must consider collecting ICNARC data for areas other than general ICU and HDU. (Reg 17)	57 Review the collection of ICNARC data for areas apart from general ICU and general HDU and how this can be rolled out across the Trust to other relevant departments	57.1 CICU are submitting ICNARC data	June 2019	Lindsey Garcia / Steve Bonner	Adrian Clements
The trust must be able to provide assurance that nursing staff in critical care are trained in equipment and have the appropriate knowledge and skills to provide level two and three care. (Reg 18)	58 Undertake a TNA of staff within critical care to ensure they have the appropriate skills and knowledge.	58.1 Completion of TNA and action plan in place and implemented to address shortfalls	September 2019	Steph Hawman/Lesley Taylor / Steve Bonner	Adrian Clements
	59 Develop and implement an action plan to address issues identified	59.1 Training records in place to show that staff have been trained and are competent in the use of specific equipment and a rolling programme is in place	December 2019	Steph Hawman/Lesley Taylor / Steve Bonner	Adrian Clements

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
The Trust should seek to improve staff's understanding of female genital mutilation	60 Increase knowledge of staff around female genital mutilation	60.1 Mandatory Training records of staff attendance showing increased numbers	March 2020	Steph Hawman	Adrian Clements
The Trust should review the level of administrative support in critical care areas	61 All critical care units to have administrative support	61.1 Recruitment of admin staff to vacant posts	October 2019	Anne Foster/Gemma Swan	Adrian Clements
The trust should review the psychological elements of NICE CG83 rehabilitation after critical illness and consider inputting this into the follow up clinics.	62 The Trust to have a Rehabilitation after critical illness in adults (RaCI) service	62.1 GAP analysis complete	August 2019	Lindsay Garcia / Steve Bonner	Adrian Clements
		62.2 Business case completed and submitted	March 2020	Lindsay Garcia / Steve Bonner	Adrian Clements

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
The trust should continue to work to reduce the number of non-delayed, out-of-hours discharges to the ward	63 Critical care patients to be discharged to the ward within core operating hours.	63.1 Track the patients currently transferred outside of core hours	September 2019	Gemma Swan	Adrian Clements
		63.2 Identification specific wards where delays occur and implement agreed actions in order to secure a downward trajectory in line with comparable organisations	September 2019	Gemma Swan	Adrian Clements
The trust should review privacy and dignity for patients in areas where curtains are not in place.	64 All critical care units to ensure privacy and dignity for all patients	64.1 Evidence from PLACE, Matron and ward managers assurance visits that curtains or screens are in place and fit for purpose	September 2019	Lesley Taylor / Denise Foster	Gill Hunt / Kevin Oxley

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
Diagnostics Imaging					
The trust must ensure there is a robust system to ensure that incidents are reported, managed and used for on-going improvements according to Trust policy. (Reg 17)	65 Undertake a review of the incident reporting process and associated policies and procedures	65.1 All new employees to receive patient safety training including how to report using the Datix system	March 2019	Ian Bennett	Gill Hunt
	66 Roll out an updated system for reporting incidents to facilitate incident reporting	66.1 Re-launch the upgraded Datix system with associated communication and engagement plan	March 2020	Ian Bennett	Gill Hunt
		66.2 Increased the number of incidents reported in line with national reporting trends	December 2019	Ian Bennett	Gill Hunt


CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
		66.3 Ensure all serious incidents are reported within 48 hours	May 2019	Ian Bennett	Gill Hunt
	67 Review how lessons learnt are disseminated and communicated to staff	67.1 Evidence of communication regarding lessons learnt	October 2019	Ian Bennett	Gill Hunt
The trust must ensure there are sufficient numbers of suitably qualified staff, especially radiologists.	68 Ensure the workforce is sufficient to meet workforce demand	68.1 Complete a review of qualified staffing levels	December 2019	Kelly Smith	Andy Owens
	69 Provide a workforce plan based on this review to address any identified shortfalls	69.1 Implementation of an action plan to address shortfalls in staffing levels	December 2019	Kelly Smith	Andy Owens

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
(Reg 18)		69.2 Focused work to target specific areas where the number of qualified staff has been highlighted as low, including long term strategy to address shortfall	December 2019	Kelly Smith	Andy Owens
The trust must ensure the diagnostic service at Friarage hospital is compliant with good infection prevention and control practices at all times. (Reg 12)	70 Ensure all staff have had hand hygiene refresher training	70.1 Training records	December 2019	Paula Taggart (Matron)	Gill Hunt
	71 Monthly self-assessment and peer review audits are undertaken	71.1 Outcome of audit	On-going	Paula Taggart	Gill Hunt
	72 Ensure matrons spot checks and walk around take place	72.1 Outcome of spot-checks	On-going	Paula Taggart	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
Medicine (including older people's care)					
The trust should ensure there are clear guidelines in line with best practice around prescribing, administering, managing and monitoring patients who require rapid tranquilisation and that staff understand and follow these guidelines.	73 Implement guidelines relating to prescribing, administering, managing and monitoring patients who require rapid tranquilisation	73.1 Share guidelines are Centre boards, service and team meetings	September 2019	Sharon Lance (Associate Director of Nursing) & Helen Jones (Acting Chief Pharmacist)	Sath Nag (MD)
	74 Increase staff understanding of these guidelines and conduct an audit to demonstrate compliance with these guidelines	74.1 Completion of an audit to demonstrate that staff are complying with these guidelines	December 2019	Sharon Lance / Helen Jones	Sath Nag
		74.2 Evidence of formal an informal briefing sessions given to staff	September 2019	Sharon Lance / Helen Jones	Sath Nag

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
The trust should continue to ensure performance in national audits improves and that related action plans address all concerns highlighted.	75 Review the national audits process within the Centre to ensure it is aligned to the Clinical Audit Policy and agree governance processes	75.1 Complete a review of national audits relevant to the organisation	June 2019	Janice Worton	Andrew Owens
	76 Ensure action is put in place when results demonstrate that performance requires improvement	76.1 Completion of a review within the Centres and agreed governance processes in place in order to track local compliance	June 2019	Jen Lappin (QBP)	Sath Nag
		76.2 Evidence of regular monitoring by the Centre to highlight slippage and non-compliance	June 2019	Jen Lappin	Sath Nag
		76.3 Audit reports included in monthly directorate meetings and escalated through to clinical standards subgroup and Quality Assurance committee	August 2019	Janice Worton	Andrew Owens

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
		76.4 Robust action plans in place and implemented when performance requires improvement	May 2019	Jen Lappin	Sath Nag
The trust should continue with staff recruitment and retention for medical staff to achieve planned fill rate establishment.	77 Maintain Trust's focus on recruitment and retention of medical staff and that contingency plans are in place where fill rates are not achieved	77.1 Proactive recruitment and succession planning is in place	June 2019	Rachel Metcalf	Sath Nag
		77.2 Succession planning is in place	June 2019	Rachel Metcalf	Sath Nag
The trust should ensure that there is a safe, effective culture surrounding patient safety incidents with strong leadership	78 Undertake a review of the incident reporting process and associated policies and procedures and deliver project plan	78.1 All new employees to receive patient safety training including how to report using the Datix system	March 2019	Ian Bennett	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
and robust management of root cause analysis	79 Roll out an updated system for reporting incidents to facilitate incident reporting	79.1 Re-launch the upgraded Datix system with associated communication and engagement plan	March 2020	Ian Bennett	Gill Hunt
		79.2 Increased the number of incidents reported in line with national reporting trends	December 2019	Ian Bennett	Gill Hunt
		79.3 Ensure all serious incidents are reported within 48 hours	May 2019	Ian Bennett	Gill Hunt
	80 Review how lessons learnt are disseminated and communicated to staff  project_plan_Incident Reporting Final update	80.1 Scope requirements and embed agreed actions onto project plan	December 2019	Ian Bennett	Gill Hunt
		80.2 Evidence of communication regarding lessons learnt	December 2019	Ian Bennett	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
The trust should ensure that medicines management process is robust surrounding reconciliation of patient medicines on admission.	81 Ensure pharmacy workforce is sufficient to achieve 80% compliance with medicines reconciliation	81.1 Improving compliance in medicines reconciliation to 80%	December 2019	Helen Jones	Siobhan McArdle
The trust should continue to monitor the average length of stay for elective and non-elective patients to improve performance standards measured against the England national average.	82 Dashboards have been developed to track both elective and non-elective length of stay at Organisational, Centre Specialty and Ward Level. 83 Benchmarking systems such as Model Hospital, GIRFT and HED are a core component of the clinical strategy development programme, of which we have 17 specialties moving through since April 2019. 84 Utilise length of stay data to align inpatient delivery models.	82.1 Specialties performance monitored to achieve top quartile and where already achieved generate stretch to top decile (HED)	September 2019	Ops Directors	Jo Dobson (Director of Transformation)

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
The trust should continue to monitor readmission rates for elective admissions to improve performance compared to the England average.	85 To align with NHS Outcomes framework the trust is currently developing a system to track readmissions rates for both non-elective and elective admissions against a national reporting specification. This will be reported through to board on a routine basis.	85.1 % of patients re-admitted within 30 days of an elective admission – target to be set	September 2019	Ops Directors	MD's
The trust should ensure that all patients' nutritional risk assessments are updated and food and fluid charts are fully completed at the Friarage hospital.	86 There is evidence that patients nutritional risks are assessed and monitored regularly at the Friarage and in accordance with agreed processes	86.1 Evidence of nutritional risk assessments being completed via monthly audit process	July 2019	Sue Glendenning	Gill Hunt
	87 There is evidence that food and fluid charts are updated regularly and in accordance with agreed processes	87.1 Evidence that action has been taken when patients are identified at risk via monthly audit process	July 2019	Sue Glendenning	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
		87.2 Monthly audits conducted to demonstrate that food and fluid charts are being fully completed	July 2019	Sue Glendenning	Gill Hunt
The trust should ensure that when staff complete a capacity form they fully document the reasoning behind a best interest decision and identify the names of other people that have been consulted in the making of that decision	88 Ensure that capacity forms are completed appropriately by staff and in accordance with best interest decision	88.1 Quarterly audit of capacity forms	August 2019	Sue Glendenning	Gill Hunt
		88.2 Evidence from audit and safeguarding assurance round that staff are aware of the processes for best interest decisions and are appropriately skilled	July 2019	Sue Glendenning	Gill Hunt
	89 Staff are trained in best interest decisions and have appropriate knowledge and skill	89.1 Evidence and documentation to support that other relevant people have been consulted with in the making of the decision	July 2019	Sue Glendenning	Gill Hunt
	90 Staff can demonstrate that they have consulted other relevant people in the making of that decision	90.1 Evidence of training records and compliance for staff	July 2019	Sue Glendenning	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
Surgery					
The trust should ensure there is suitable and sufficient anaesthetic cover available when required	91 Review the provision of anaesthetic cover and develop an action plan to address any shortfalls	91.1 Completion of the review into the provision of anaesthetic cover	September 2019	Matt Cheesman (Clinical Director)	Adrian Clements
		91.2 Evidence of development and implementation of the agreed action plan	September 2019	Matt Cheesman	David Chadwick
The trust should ensure patient consent is obtained in accordance with best practise guidance.	92 Review the consent policy and procedures within the Trust and ensure this is aligned to best practice guidance	92.1 Review of consent policy to be completed	Dec 2019	Matt Clarke (Clinical Director) /Jon Broughton (Surgical Care Practitioner)	David Chadwick
		92.2 Evidence of staff briefings and their responsibilities about consent and any updated processes	January 2020	Matt Clarke/Jon Broughton	David Chadwick

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
	93 Undertake an audit of consent to determine a baseline and develop an action plan to address issues identified	93.1 Audit conducted and an action plan developed and implemented to address shortfalls	July 2019	Matt Clarke/Jon Broughton	David Chadwick
		93.2 Month on month audit to demonstrate improved compliance with consent processes	July 2019	Matt Clarke/Jon Broughton	David Chadwick
The trust should ensure emergency resuscitation equipment trolleys are secure so that equipment or emergency drugs cannot be removed between checks	94 Ensure that resuscitation trolleys are standardised as per UK resuscitation guidance recommendations	94.1 Spot check audits to demonstrate compliance	June 2019	Donna Campbell	Gill Hunt
	95 Ensure that daily checks on the resuscitation trolleys are undertaken	95.1 Records of daily checks being undertaken and action taken where necessary	June 2019	Karen Harwood (Matron FHN)	Gill Hunt

CQC required action	Proposed resolution	Measures/Evaluation	Due date & RAG rating	Operational Lead	Responsible Director
The trust should ensure the actions taken to safeguard refrigerated medicines are recorded, when fridge temperatures are not within the required range at the Friarage hospital	96 Follow agreed systems for recording of fridge temperatures in accordance with agreed procedures	96.1 Clear documented evidence that fridge temperatures are being recorded in accordance with agreed procedures	June 2019	Karen Harwood	Gill Hunt
	97 Ensure where issues are identified and the temperatures are outside the required range, these are escalated and action is taken to address this	97.1 Evidence of actions taken when fridge temperature is outside of the required range	July 2019	Karen Harwood	Gill Hunt

Board of Directors	
Agenda item	Agenda Item 18 – ENC 13
Title of Report	Updated Constitution
Date of Meeting	3 September 2019
Presented by	Alan Downey, Chairman
Author	Jackie White, Head of Governance
Previous Committee/Group Review	Council of Governors Constitution Working Group Council of Governors
Purpose	Approval <input checked="" type="checkbox"/> Decision <input type="checkbox"/> Discussion <input type="checkbox"/> Information <input type="checkbox"/>
Alignment to Trust's Strategic Objectives	<input checked="" type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience <input checked="" type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care <input checked="" type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future <input checked="" type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice <input checked="" type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability
Alignment to Board Assurance Framework	-
Legal/Regulatory Compliance Requirements (if applicable)	NHS 2006 Act as amended by the Health and Social Care Act 2012 NHSE/I, Trust's Licence
Recommendation(s)	The Council of Governors Constitution Working Group reviewed the Constitution and recommended that the same be amended to be more gender neutral. Council of Governors approved these changes and recommend that the Board of Directors approve the amended Constitution. A copy of the Constitution will be made available at Board of Directors or on request.

**FOUNDATION
TRUST
CONSTITUTION**

<u>ISSUE DATE</u>	February 2013
<u>DATE REVIEWED</u>	June 2018 June 2019
<u>APPROVAL PROCESS</u>	Subject to Board of Director and Council of Governor Agreement
<u>LEAD OFFICER(S)</u>	Chief Executive and Chairman

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Revised during 2018 to meet the requirements of the NHS 2012 Health Act amendments
Amendments to the Constitution approved by:
the Council of Governors on 8 May 2018;
the Board of Directors on 5 June 2018; and
the Annual Members meeting on 2 October 2018.

Revised in June 2019 to ensure document is gender neutral

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1. **Interpretation and definitions**

Unless otherwise stated, words or expressions contained in this Constitution reflect the relevant provisions of the National Health Service Act 2006 as amended by the 2012 Act.

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

The 2006 Act is the National Health Service Act 2006.

The 2012 Act is the Health and Social Care Act 2012.

Accounting Officer is the Chief Executive, who from time to time discharges the functions as Accounting Officer of the Trust for the purposes of Government accounting as specified in paragraph 25(5) of Schedule 7 to the 2006 Act.

Board of Directors or Board is the Board of Directors of the Trust as constituted pursuant to this Constitution and the 2006 Act.

Chairman or Chair is the individual appointed as Group Chair of the Board of Directors (and Chair of the Council of Governors)

Constitution means this constitution and all annexes to it.

Council of Governors is the Council of Governors of the Trust as constituted pursuant to this Constitution.

Executive Director is a Group Executive Director of the Trust appointed in accordance with the requirements of this Constitution.

Licence is the Trust's provider licence issued by Monitor.

Member is an individual registered as a member of one of the constituencies described at Annex 1 and Annex 2 of this Constitution.

Monitor or Trust Regulator is the body corporate known as Monitor, referred to in Section 61 of the 2012 Act which operates with National Health Service Trust Development Authority as NHS Improvement.

Non-executive Director is a Non-executive Director of the Trust appointed in accordance with this Constitution.

Non Principle Purpose Activities are activities other than for the provision of goods and services for the purposes of the National Health Service in England.

Officer is an employee of the Trust or any person holding a paid appointment of office with the Trust.

Register of Members is a register of members which the Trust is required to have and maintain under Paragraph 20 of Schedule 7 of the 2006 Act.

Working Day is a day of the week which is not a Saturday, Sunday or public holiday in England.

2. Name

2.1 The name of the Foundation Trust is South Tees Hospitals NHS Foundation Trust (the Trust).

3. Principal purpose

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

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

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

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

3.3.2 The promotion and protection of public health.

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

4. Powers

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

4.2 All the powers of the Trust shall be exercised by the Board of Directors on behalf of the Trust.

4.3 Any of these powers may be delegated to a Committee of Directors or to an Executive Director.

5. Membership and constituencies

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

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- 5.1.1 a public constituency
- 5.1.2 a staff constituency or
- 5.1.3 a patient and/or carers constituency

6. Application for membership

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

7. Public constituency

- 7.1 An individual who lives in an area specified in Annex 1 as an area for a public constituency may become or continue as a member of the Trust.

- 7.2 Those individuals who live in an area specified as an area for any public constituency are referred to collectively as the Public Constituency.

- 7.3 The Public Constituency shall be divided into five descriptions who are eligible for membership:

- 7.3.1 Middlesbrough
- 7.3.2 Redcar and Cleveland
- 7.3.3 Hambleton, Richmondshire and Whitby
- 7.3.4 Rest of England
- 7.3.5 Patient/Carers'

7.4 A Patient/Carer constituency eligibility is an individual who has, within the last 10 years, attended any of the Trust's hospitals as either a patient or as the carer of a patient. He/she may become a member of the Trust, provided that he/she lives within the Trust's Public Constituency areas in 7.3.1, 7.3.2, 7.3.3 or 7.3.4 above.

7.5 An individual providing care in pursuance of a contract (including a contract of employment) with a voluntary organisation, or as a volunteer for a voluntary organisation, does not come within the category of those who qualify for membership of the Patient/Carers' Constituency.

- 7.6 The minimum number of members in each area for the Public Constituency is specified in Annex 1.

8 Staff constituency

- 8.1 An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a member of the Trust provided:
 - 8.1.1 he/she is employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months, or
 - 8.1.2 he/she has been continuously employed by the Trust under a contract of employment for at least 12 months.
- 8.3 Those individuals who are eligible for membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.
- 8.4 The minimum number of members in the Staff Constituency is specified in Annex 2.

9 Automatic membership by default (Staff)

- 9.1 An individual who is:
 - 9.1.1 eligible to become a member of the Staff Constituency, and
 - 9.1.2 invited by the Trust to become a member of the Staff Constituency
 - 9.1.3 shall become a member of the Trust as a member of the Staff Constituency without an application being made, unless he/she informs the trust that he/she does not wish to do so.

10. Restriction on membership

- 10.1 An individual who is a member of a constituency, or of a class within a constituency, may not while membership of that constituency or class continues, be a member of any other constituency or class.
- 10.2 An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any constituency other than the Staff Constituency.
- 10.3 An individual must be at least 16 years old to become a member of the Trust.
- 10.4 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Trust are set out in Annex 8 – Further provisions.

11. Annual Members Meeting

- 11.1 The Trust shall hold an Annual Members Meeting of its members ('Annual members' Meeting'). The Annual Members Meeting shall be open to members of the public (described further in Annex 8 Further Provisions).

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12. Council of Governors - Composition

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

13. Council of Governors – Election of Governors

- 13.1 Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules.
- 13.2 The Model Election Rules, as published from time to time by the Department of Health form part of this constitution. The Model Election Rules current at the date of the Trust’s Authorisation are attached at Annex 4.
- 13.3 A subsequent variation of the Model Election Rules by the Department of Health shall not constitute a variation of the terms of the Constitution.
- 13.4 An election, if contested, shall be by secret ballot.

14. Council of Governors - tenure

- 14.1 An elected governor may hold office for a period of up to 3 years.
- 14.2 An elected governor shall cease to hold office if he/she ceases to be a member of the constituency or class by which he/she was elected.
- 14.3 An elected governor shall be eligible for re-election at the end of his/her term and shall serve no more than three consecutive terms of office, resulting in a maximum of 9 years’ tenure.
- 14.4 An appointed governor may hold office for a period of up to 3 years.
- 14.5 An appointed governor shall cease to hold office if the appointing organisation withdraws its sponsorship of him (terminates the appointment).
- 14.6 An appointed governor shall be eligible for re-appointment at the end of his/her term and shall serve no more than three consecutive terms of office, resulting in a maximum of 9 years’ tenure.

15. Council of Governors – disqualification and removal

- 15.1 The following may not become or continue as a member of the Council of Governors:
 - 15.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;

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- 15.1.2 a person who has made a composition or arrangement with, or granted a Trust deed for, his/her creditors and has not been discharged in respect of it;
- 15.1.3 a person who within the preceding five years has been convicted of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.
- 15.2 Governors must be at least 16 years of age at the date they are nominated for election or appointment.
- 15.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors are set out in Annex 5.
- 15.4 Where a governor becomes ineligible to continue holding the office of governor, and thus disqualified, he/she must notify the Company Secretary in writing. Upon receipt of this notification the governor's tenure of office will be terminated.
- 15.5 If it comes to the notice of the Company Secretary that a governor is disqualified, the governor will be immediately declared disqualified and notified to this effect.

16. Council of Governors – Duties of Governors

- 16.1 The general duties of the Council of Governors are:
 - 16.1.1 to hold the Non-executive Directors individually and collectively to account for the performance of the Board of Directors; and
 - 16.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public.
- 16.2 The Trust must take steps to secure that the governors are equipped with the skills and knowledge they require in their capacity as such.

17. Council of Governors – Meetings of Governors

- 17.1 The Chairman of the Trust or, in his/her absence, one of the Non-executive Directors, shall preside at meetings of the Council of Governors. If the person presiding at any such meeting has a conflict of interest in relation to the business being discussed, the Lead Governor of the Council of Governors will chair the meeting.
- 17.2 Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting (whether for the whole or part of such meeting) for special reasons as determined by the Chairman in conjunction with the Council of Governors which may include, but are not limited to, the following reasons:
 - 17.2.1 Publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted; or
 - 17.2.2 There are special reasons stated in the resolution and arising from the nature of the business of the proceedings;

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17.2.3 The Chairman may exclude any members of the public from a meeting of the Council of Governors if they are interfering with or preventing proper conduct of the meeting.

17.2.4 The Council may invite the Chief Executive of the Trust, and other appropriate Directors, to attend any meeting of the Council of Governors and enable members of the Council of Governors to raise questions about the Trust affairs.

18. Council of Governors – Standing Orders

18.1 The Standing Orders for the practice and procedure of the Council of Governors are attached at Annex 6.

19. Council of Governors – Referral to the Panel

19.1 In this paragraph, the Panel means a panel of persons appointed by Monitor (NHS Improvement) to which a Governor of an NHS Foundation Trust may refer a question as to whether the Trust has failed or is failing;

19.1.1 to act in accordance with its Constitution, or

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

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

20. Council of Governors – Conflicts of Interest of Governors

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

21. Council of Governors – Travel Expenses

21.1 The Trust may pay travel and other expenses to members of the Council of Governors at rates determined by the Trust.

22. Council of Governors – Further Provisions

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

23. Board of Directors – Composition

23.1 The Trust is to have a Board of Directors, which shall comprise both executive and non-executive Directors.

23.2 The Board of Directors is to comprise:

23.2.1 a non-executive Chairman

23.2.2 between 5 - 8 other non-executive Directors; and

23.2.3 between 5 - 8 executive Directors.

23.3 The number of Directors may be increased within the range of 23.2.2 and 23.2.3 above, with the approval of the Board, provided always at least half the Board, excluding the Chairman, comprises Non-executive Directors determined by the Board to be independent.

23.4 One of the executive Directors shall be the Chief Executive.

23.5 The Chief Executive shall be the Accounting Officer.

23.6 One of the executive Directors shall be the Finance Director.

23.7 One of the executive Directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).

23.8 One of the executive Directors is to be a registered nurse or a registered midwife.

24. Board of Directors – General Duty

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

25. Board of Directors – Qualification for Appointment as a Non-executive Director

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

25.1.1 he/she is a member of a Public Constituency, or

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

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25.2 he/she is not disqualified by virtue of paragraph 28 below.

26. Board of Directors – Appointment and Removal of Chairman and other Non-executive Directors

26.1 The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the chairman of the Trust and the other non-executive Directors.

26.2 Removal of the Chairman or another Non-executive Director shall require the approval of three-quarters of the members of the Council of Governors and follow any guidance issued by the Trust's Regulator.

27. Board of Directors – Appointment of Deputy Chairman and Senior Independent Director

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

27.2 The Board of Directors shall, following consultation with the Council of Governors, appoint one of the Non-executive Directors as a Senior Independent Director to act in accordance with Monitor's Foundation Trust Code of Governance (as may be amended and replaced from time to time); and the Trust's Standing Orders.

28. Board of Directors – Appointment and Removal of the Chief Executive and other Executive Directors

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

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

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

29. Board of Directors – Disqualification

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

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

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

29.3 a person who within the preceding five years has been convicted of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.

29.4 a person where disclosures revealed by a Disclosure and Barring Service

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check against such a person are such that it would be inappropriate for him to become or continue as a Director or would adversely affect public confidence in the Trust or otherwise bring the Trust into disrepute.

- 29.5 A person who is a member of the Council of Governors.
- 29.6 A person who is the spouse, partner, parent or child of an existing member of the Board of Directors of the Trust.
- 29.7 A person who is not a fit and proper person for the purposes of Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and/or Condition G4 of the Trust's Licence.
- 29.8 A person who is subject of a disqualification order made under the Company Directors Disqualification Act 1986.
- 29.9 A person whose tenure of office as Chair or a member or Director of a health service body has been terminated on the grounds that their appointment is not in the interests of the health service for reasons including non-attendance at meetings, or for non-disclosure of a pecuniary interest.
- 29.10 A person who has within the preceding two years been dismissed, otherwise than by reason of redundancy or for ill health, from any paid employment with a health service body or a local authority.
- 29.11 A person who is the subject of an order under the Sexual Offenders Act 2003.
- 29.12 A person who is included in any barred list established under the Safeguarding Vulnerable Adults Act 2006 or any equivalent list.
- 29.13 A person who is a Director or Governor or Governing Body member or equivalent of another NHS body except with the approval of the Board of Directors for Executive Directors or the Council of Governors for Non-executive Directors.
- 29.14 In the case of Non-executive Directors, a person who is no longer a member of one of the public constituencies.
- 29.15 In the case of the Non-executive Directors, a person who has refused without any reasonable cause to fulfill any training requirement established by the Board of Directors.any training requirement established by the Board of Directors.
- 29.16 A person who is a member of a Local Authority's Overview and Scrutiny Committee or Health and Wellbeing Board covering health matters.

30. Board of Directors – Meetings

- 30.1 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.
- 30.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors will send a copy of the minutes of the meeting to the Council of Governors.

31. Board of Directors – Standing Orders

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

32. Board of Directors – Conflicts of Interest of Directors

32.1 The duties that a Director of the Trust has by virtue of being a Director include in particular:

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

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

32.2 The duty referred to in sub-paragraph 34.1.1 is not infringed if:

32.2.1 The situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

32.2.2 The matter has been authorised in accordance with the Constitution.

32.3 The duty referred to in sub-paragraph 34.1.2 “third party” means a person other than:

32.3.1 The Trust, or

32.3.2 A person acting on its behalf.

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

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

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

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

32.8 A Director need not declare an interest:

32.8.1 If it cannot reasonably be regarded as likely to give rise to a conflict of interest;

32.8.2 If, or to the extent that, the Directors are already aware of it;

32.8.3 If, or to the extent that, it concerns terms of the Director’s appointment that have been or are to be considered:

34.8.3.1 By a meeting of the Board of Directors, or

34.8.3.2 By a committee of the Directors appointed for the purpose under the Constitution.

32.9 The Standing Orders for the Practice and Procedure of the Board of Directors (Annex 7) make further provisions for the disclosure of interests.

33. Board of Directors – Remuneration and Terms of Office

- 33.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chairman and the other non- executive Directors.
- 33.2 The Trust shall establish a committee of non-executive Directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other executive Directors.

34. Registers

- 34.1 The Trust shall have:
- 34.1 a register of members showing, in respect of each member, the constituency to which he belongs and, where there are classes within it, the class to which he/she belongs;
- 34.2 a register of members of the Council of Governors;
- 34.3 a register of interests of governors;
- 34.4 a register of Directors; and
- 34.5 a register of interests of the Directors.
- 34.6 The information to be included in the above registers shall be such as will comply with the requirements of the 2006 Act, and any subordinate legislation made under it and the provisions of this Constitution.

35. Admission to and Removal from the Registers

- 35.1 The Trust's Company Secretary will be responsible for the maintenance of, admission to and removal from the registers under the provisions of this Constitution.
- 35.2 Each Director and governor shall advise the Company Secretary as soon as practicable of anything which comes to his/her attention or which he/she is aware of which might affect the accuracy of the matters recorded in any of the registers referred to in paragraph 34.
- 35.3 Members will be removed from the Register of Members if:
- 35.3.1 the Member is no longer eligible or is disqualified; or
- 35.3.2 the Member dies.

36. Registers – Inspection and Copies

- 36.1 The Trust shall make the registers specified in paragraph 34 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by the regulations.
- 36.2 The Trust shall not make any part of its registers available for inspection by members of the public which shows details of any member of the Trust, if he/she so requests.

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- 36.3 So far as the registers are required to be made available:
 - 36.3.1 they are to be available for inspection free of charge at all reasonable times; and
 - 36.3.2 a person who requests a copy of or extract from the registers is to be provided with a copy or extract.

37. Documents available for Public Inspection

- 37.1 The Trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times:
 - 37.1.1 a copy of the current constitution;
 - 37.1.2 a copy of the current authorisation;
 - 37.1.3 a copy of the latest annual accounts and of any report of the auditor on them;
 - 37.1.4 a copy of the latest annual report;
- 37.2 The Trust shall also make the following documents relating to a special administration of the Trust available for inspection by members of the public free of charge at all reasonable times:
 - 37.2.1 a copy of any order under section 65D (appointment of trust special administrator), 65J (power to extend time), 65KC (action following Secretary of State's rejection of final report), 65L (Trusts coming out of administration) or 65L (Trusts to be dissolved) of the 2006 Act.
 - 37.2.2 a copy of any report laid under section 65D (appointment of Trust administrator) of the 2006 Act.
 - 37.2.3 a copy of any information published under section 65D (appointment of Trust administrator) of the 2006 Act.
 - 37.2.4 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act.
 - 37.2.5 a copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act.
 - 37.2.6 a copy of any notice published under section 65F (administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA (Monitor (NHS Improvement's) decision), 65KB (Secretary of State's response to Monitor (NHS Improvement's) decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act.
 - 37.2.7 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act.
 - 37.2.8 a copy of any final report published under section 65I (administrator's final report).

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- 37.2.9 a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act.
- 37.2.10 a copy of any information published under section 65M (replacement of Trust special administrator) of the 2006 Act.
- 37.2.11 A person who requests a copy of or an extract from any of the above documents is to be provided with a copy.
- 37.2.12 If the person requesting a copy or extract is not a member of the Trust, the Trust may impose a reasonable charge for doing so.

38. Auditor

- 38.1 The Trust shall have an auditor.
- 38.2 A person may only be appointed Auditor if he/she (or in the case of a firm each of its members) is a member of one or more of the bodies referred to in Paragraph 23(4) of Schedule 7 to the 2006 Act.
- 38.3 The Council of Governors shall appoint or remove the auditor at a general meeting of the Council of Governors.
- 38.4 The Auditor shall carry out its duties in accordance with Schedule 10 to the 2006 Act and in accordance with any directions given by Monitor (NHS Improvement) on standards, procedures and techniques to be adopted.

39. Audit Committee

- 39.1 The Trust shall establish a committee of non-executive Directors (at least one of whom that has competence in accounting and/or auditing and recent and relevant financial experience) as an Audit Committee to perform such monitoring, reviewing and other functions as are appropriate.

40. Accounts

- 40.1 The Trust must keep proper accounts and proper records in relation to the accounts.
- 40.2 Monitor (NHS Improvement) may with the approval of the Secretary of State give directions to the Trust as to the content and form of its accounts.
- 40.3 The accounts are to be audited by the Trust's auditor.
- 40.4 The Trust shall prepare in respect of each financial year annual accounts in such form as Monitor (NHS Improvement) may with the approval of the Secretary of State direct.
- 40.5 The functions of the Trust with respect to the preparation of the annual accounts shall be delegated to the Accounting Officer.

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41. Annual Report, Forward Plans and Non-NHS work

- 41.1 The Trust shall prepare an Annual Report and send it to Monitor (NHS Improvement).
- 41.2 The Trust shall give information as to its forward planning in respect of each financial year to the Trust Regulator.
- 41.3 The document containing the information with respect to forward planning (referred to above) shall be prepared by the Directors.
- 41.4 In preparing the document, the Directors shall have regard to the views of the Council of Governors.
- 41.5 Each forward plan must include information about:
 - 41.5.1 the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on, and
 - 41.5.2 the income it expects to receive from doing so.
- 41.6 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 41.5.1 the Council of Governors must:
 - 41.6.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfillment by the Trust of its principal purpose or the performance of its other functions, and
 - 41.6.2 notify the Directors of the Trust of its determination.
- 41.7 A Trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more than half of the members of the Council of Governors of the Trust voting approve its implementation.

42. Presentation of the Annual Accounts and Reports to the Governors and Members

- 42.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors:
 - 42.1.1 the annual accounts
 - 42.1.2 any report of the auditor on them
 - 42.1.3 the annual report.
- 42.2 The documents shall also be presented to the members of the Trust at the Annual Members Meeting by at least one member of the Board of Directors in attendance.
- 42.3 The Trust may combine a meeting of the Council of Governors convened for the purposes of an Annual Members meeting.

43. Instruments

- 43.1 The Trust shall have a seal.
- 43.2 The seal shall not be affixed except under the authority of the Board of Directors.

44. Amendment of the Constitution

- 44.1 The Trust may make amendments of its Constitution only if:
 - 44.1.1 More than half of the members of the Council of Governors of the Trust voting approve the amendments, and
 - 44.1.2 More than half of the members of the Board of Directors of the Trust voting approve the amendments.
- 44.2 Amendments made under 44.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the Constitution would, as a result of the amendment, not accord with Schedule 7 of the 2006 Act.
- 44.3 Where an amendment is made to the Constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust):
 - 44.3.1 At least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment, and
 - 44.3.2 The Trust must give the members an opportunity to vote on whether they approve the amendment.
 - 44.3.2.1 If more than half of the members voting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the Trust must take such steps as are necessary as a result.
- 44.4 Amendments by the Trust of its Constitution are to be notified to Monitor (NHS Improvement). For avoidance of doubt, Monitor (NHS Improvement's) functions do not include a power or duty to determine whether or not the Constitution, as a result of the amendments, accords with Schedule 7 of the 2006 Act.

45. Mergers etc. and Significant Transactions

- 45.1 The Trust may only apply for a merger, acquisition, separation or dissolution with the approval of more than half of the members of the Council of Governors.
- 45.2 The Trust may enter into a significant transaction only if more than half of the members of the Council of Governors of the Trust voting approve entering into the transaction.
- 45.3 'Significant Transaction' is defined as:
 - 45.3.1 The acquisition of, or an agreement to acquire, whether contingent or not, assets the value of which is more than 25% of the value of the Trust's gross assets before the acquisition; or
 - 45.3.2 The disposition of, or an agreement to dispose of, whether contingent or not, assets of the Trust the value of which is more than 25% of the value of the Trust's gross assets before the disposition; or

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45.3.3 A transaction that has or is likely to have the effect of the Trust acquiring rights or interests or incurring obligations or liabilities, including contingent liabilities, the value of which is more than 25% of the value of the Trust's gross assets before the transaction.

45.4 For the purpose of this paragraph:

45.4.1 gross assets' means the total of fixed assets and current assets;

45.4.2 in assessing the value of any contingent liability for the purposes of 45.3.3, the Directors:

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

45.4.2.2 may rely on estimates of the contingent liability that are reasonable in the circumstances; and

45.4.2.3 may take account of the likelihood of the contingency occurring.

45.5 The views of the Council of Governors will be taken into account before the Trust enters into any proposed transaction which would exceed a threshold of 10% for any of the criteria set out in 47.3 above.

46. Indemnity

46.1 Governors and Directors who act honestly and in good faith and not recklessly will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their Council of Governors or Board of Directors functions. Any such liabilities will be liabilities of the Trust.

46.2 The Trust may make such arrangements it considers appropriate for the provision of indemnity insurance or similar arrangement for the benefit of the Trust, the Council of Governors, the Board of Directors, and the Company Secretary.

ANNEX 1 – THE PUBLIC CONSTITUENCY

The Public Constituency is comprised of the following areas:

- Area A - Middlesbrough (defined by Local Authority boundaries)
- Area B - Redcar and Cleveland (defined by Local Authority boundaries)
- Area C - Hambleton and Richmondshire (defined by the boundaries of Hambleton District Council and Richmondshire District Council)
- Area D - Rest of England (defined as any area of England other than those in areas A, B and C)
- Area E - Patient and/or Carers (defined as any of the public constituencies/Rest of England in areas A, B, C and D a patient and/or Carer of the Trust)

There will be a minimum in the Public Constituency of:

50 members in each of the three areas A, B and C
10 members for Area D, and
10 members in Area E.

ANNEX 2 – THE STAFF CONSTITUENCY

The Staff Constituency will not be divided into classes.

There will be a minimum of 30 members in the Staff Constituency.

Individuals, who exercise functions for the purpose for the Trust, otherwise than under a contract of employment with the Trust, may become or continue as members of the staff constituency provided such individuals have a contract of employment for a period of at least 12 months.

ANNEX 3 – COMPOSITION OF COUNCIL OF GOVERNORS

Elected Governors

The elected governors will be as follows

CONSTITUENCY	GOVERNORS
Public Constituency:	
A – Middlesbrough	5
B – Redcar and Cleveland	5
C- Hambleton and Richmondshire	5
D – Rest of England	1
E – Patient/Carers' Constituency	2
F - Staff Constituency	3

Appointed governors

GOVERNORS REQUIRED BY STATUTE	GOVERNORS
Primary Care Trusts	
- South Tees CCG	1
- Hambleton Richmondshire and Whitby CCG	1
Local Authorities	
- Middlesbrough	1
- Redcar and Cleveland	1
- North Yorkshire	1
Universities	
- University of Teesside	1
- University of Durham	1
- University of Newcastle	1
PARTNERSHIP GOVERNORS	
-Healthwatch	1
- Carers Organisation	1
- Partnership Organisation	1
- Voluntary Organisation	1

Governors representing CCGs, Local Authorities and Universities will be appointed pursuant to a process agreed by those organisations and the Trust.

ANNEX 4 – THE MODEL ELECTION RULES

Part 1 - Interpretation

1. Interpretation

Part 2 – Timetable for election

2. Timetable
3. Computation of time

Part 3 – Returning officer

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

Part 4 - Stages Common to Contested and Uncontested Elections

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

Part 5 – Contested elections

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

Action to be taken before the poll

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

The poll

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

Procedure for receipt of envelopes

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

Part 6 - Counting the votes

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

Part 7 – Final proceedings in contested and uncontested elections

49. Declaration of result for contested elections.
50. Declaration of result for contested elections
51. Declaration of result for uncontested elections

Part 8 – Disposal of documents

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

Part 9 – Death of a candidate during a contested election

57. Countermand or abandonment of poll on death of candidate
58. Countermand or abandonment of poll on death of candidate

Part 10 – Election expenses and publicity

Expenses

- 59. Expenses incurred by candidates
- 60. Expenses incurred by other persons
- 61. Personal, travelling, and administrative expenses

Publicity

- 62. Publicity about election by the corporation
- 63. Information about candidates for inclusion with voting documents
- 64. Meaning of “for the purposes of an election”

Part 11 – Questioning elections and irregularities

- 65. Application to question an election

Part 12 – Miscellaneous

- 66. Secrecy
- 67. Prohibition of disclosure of vote
- 68. Disqualification
- 69. Delay in postal service through industrial action or unforeseen event

Part 1 - Interpretation

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

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

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

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

“the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003.

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

Part 2 – Timetable for election

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

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

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

- (a) a Saturday or Sunday;
- (b) Christmas day, Good Friday, or a bank holiday, or
- (c) a day appointed for public thanksgiving or mourning,

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

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

Part 3 – Returning officer

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

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

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

- 6. Expenditure** - The corporation is to pay the returning officer –
- (a) any expenses incurred by that officer in the exercise of his or her functions under these rules,
 - (b) such remuneration and other expenses as the corporation may determine.

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

Part 4 - Stages Common to Contested and Uncontested Elections

- 8. Notice of election** – The returning officer is to publish a notice of the election stating
- (a) the constituency, or class within a constituency, for which the election is being held,
 - (b) the number of members of the Council of Governors to be elected from that constituency, or class within that constituency,
 - (c) the details of any nomination committee that has been established by the corporation,
 - (d) the address and times at which nomination papers may be obtained;
 - (e) the address for return of nomination papers and the date and time by which they must be received by the returning officer,
 - (f) the date and time by which any notice of withdrawal must be received by the returning officer
 - (g) the contact details of the returning officer, and
 - (h) the date and time of the close of the poll in the event of a contest.

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

(2) The returning officer-

- (a) is to supply any member of the corporation with a nomination paper, and
- (b) is to prepare a nomination paper for signature at the request of any member of the corporation,

but it is not necessary for a nomination to be on a form supplied by the returning officer.

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

- (a) full name,
- (b) contact address in full, and
- (c) constituency, or class within a constituency, of which the candidate is a member.

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

- (a) any financial interest that the candidate has in the corporation, and
- (b) whether the candidate is a member of a political party, and if so, which party,

and if the candidate has no such interests, the paper must include a statement to that effect.

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

- (a) that he or she is not prevented from being a member of the Council of Governors by paragraph 8 of Schedule 1 of the 2003 Act or by any provision of the constitution; and,
- (b) for a member of the public or patient constituency, of the particulars of his or her qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

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

- (a) they wish to stand as a candidate,
- (b) their declaration of interests as required under rule 11, is true and correct, and
- (c) their declaration of eligibility, as required under rule 12, is true and correct.

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

- (a) decides that the candidate is not eligible to stand,
- (b) decides that the nomination paper is invalid,
- (c) receives satisfactory proof that the candidate has died, or
- (d) receives a written request by the candidate of their withdrawal from candidacy.

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

- (a) that the paper is not received on or before the final time and date for return of nomination papers, as specified in the notice of the election,
- (b) that the paper does not contain the candidate's particulars, as required by rule 10;

- (c) that the paper does not contain a declaration of the interests of the candidate, as required by rule 11,
- (d) that the paper does not include a declaration of eligibility as required by rule 12, or
- (e) that the paper is not signed and dated by the candidate, as required by rule 13.

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

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

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

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

(2) The statement must show –

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

as given in their nomination paper.

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

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

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

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

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

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

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

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

- (a) the candidates who remain validly nominated are to be declared elected in accordance with Part 7 of these rules, and
- (b) the returning officer is to order a new election to fill any vacancy which remains unfilled, on a day appointed by him or her in consultation with the corporation.

Part 5 – Contested elections

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

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

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

(2) Every ballot paper must specify –

- (a) the name of the corporation,
- (b) the constituency, or class within a constituency, for which the election is being held,
- (c) the number of members of the Council of Governors to be elected from that constituency, or class within that constituency,
- (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) instructions on how to vote,
- (f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and
- (g) the contact details of the returning officer.

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

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

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

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

- (a) that the voter is the person to whom the ballot paper was addressed,
- (b) that the voter has not marked or returned any other voting paper in the election, and
- (c) for a member of the public or patient constituency, of the particulars of that member's qualification to vote as a member of the constituency or class within a constituency for which the election is being held.

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

- (a) the name of the voter,
- (b) the address of the voter,
- (c) the voter's signature, and
- (d) the date that the declaration was made by the voter.

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

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

Action to be taken before the poll

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

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

23. Notice of poll - The returning officer is to publish a notice of the poll stating–

- (a) the name of the corporation,

- (b) the constituency, or class within a constituency, for which the election is being held,
- (c) the number of members of the Council of Governors to be elected from that constituency, or class with that constituency,
- (d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,
- (f) the address for return of the ballot papers, and the date and time of the close of the poll,
- (g) the address and final dates for applications for replacement ballot papers, and
- (h) the contact details of the returning officer.

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

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

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

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

(2) The covering envelope is to have –

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

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

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

The poll

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

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

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

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

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

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

- (a) is satisfied as to the voter’s identity, and
- (b) has ensured that the declaration of identity, if required, has not been returned.

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

- (a) the name of the voter, and
- (b) the details of the unique identifier of the spoilt ballot paper (if that officer was able to obtain it), and
- (c) the details of the unique identifier of the replacement ballot paper.

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

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

- (a) is satisfied as to the voter’s identity,
- (b) has no reason to doubt that the voter did not receive the original ballot paper, and
- (c) has ensured that the declaration of identity if required has not been returned.

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

- (a) the name of the voter, and
- (b) the details of the unique identifier of the replacement ballot paper.

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

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

- (a) the name of the voter, and
- (b) the details of the unique identifier of the replacement ballot paper issued under this rule.

31. Declaration of identity for replacement ballot papers (public and patient constituencies) –

(1) In respect of an election for a public or patient constituency a declaration of identity must be issued with each replacement ballot paper.

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

- (a) that the voter has not voted in the election with any ballot paper other than the ballot paper being returned with the declaration, and
- (b) of the particulars of that member’s qualification to vote as a member of the public or patient constituency, or class within a constituency, for which the election is being held.

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

- (a) the name of the voter,
- (b) the address of the voter,
- (c) the voter’s signature, and
- (d) the date that the declaration was made by the voter.

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

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

Procedure for receipt of envelopes

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

- (a) covering envelope, or
- (b) any other envelope containing a declaration of identity if required, a ballot paper envelope, or a ballot paper,

before the close of the poll, that officer is to open it as soon as is practicable; and rules 33 and 34 are to apply.

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

- (a) the candidate for whom a voter has voted, or
- (b) the unique identifier on a ballot paper.

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

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

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

- (a) put the declaration of identity if required in a separate packet, and
- (b) put the ballot paper aside for counting after the close of the poll.

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

- (a) mark the ballot paper “disqualified”,
- (b) if there is a declaration of identity accompanying the ballot paper, mark it as “disqualified” and attach it the ballot paper,
- (c) record the unique identifier on the ballot paper in a list (the “list of disqualified documents”); and
- (d) place the document or documents in a separate packet.

34. Declaration of identity but no ballot paper (public and patient constituency) –

Where the returning officer receives a declaration of identity if required but no ballot paper, the returning officer is to –

- (a) mark the declaration of identity “disqualified”,
- (b) record the name of the voter in the list of disqualified documents, indicating that a declaration of identity was received from the voter without a ballot paper; and
- (c) place the declaration of identity in a separate packet.

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

- (a) the disqualified documents, together with the list of disqualified documents inside it,
- (b) the declarations of identity if required,
- (c) the list of spoiled ballot papers,
- (d) the list of lost ballot papers,
- (e) the list of eligible voters, and
- (f) the list of tendered ballot papers.

Part 6 - Counting the votes

36. Interpretation of Part 6 – In Part 6 of these rules –

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

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

“deemed to be elected” means deemed to be elected for the purposes of counting of votes but without prejudice to the declaration of the result of the poll,

“mark” means a figure, an identifiable written word, or a mark such as “X”,

“non-transferable vote” means a ballot paper –

- (a) on which no second or subsequent preference is recorded for a continuing candidate, or
- (b) which is excluded by the returning officer under rule stv44(4) below,

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

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

“quota” means the number calculated in accordance with rule stv41 below,

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

“stage of the count” means –

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

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

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

“transfer value” means the value of a transferred vote calculated in accordance with paragraph (4) or (7) of rule stv42 below.

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

38. The count – (1) The returning officer is to –

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

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

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

39. Rejected ballot papers – (1) Any ballot paper –

- (a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,
- (b) on which the figure “1” standing alone is not placed so as to indicate a first preference for any candidate,
- (c) on which anything is written or marked by which the voter can be identified except the unique identifier, or
- (d) which is unmarked or rejected because of uncertainty,

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

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

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

40. Rejected ballot papers – (1) Any ballot paper –

- (a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,
- (b) on which votes are given for more candidates than the voter is entitled to vote,
- (c) on which anything is written or marked by which the voter can be identified except the unique identifier, or
- (d) which is unmarked or rejected because of uncertainty,

shall, subject to paragraphs (2) and (3) below, be rejected and not counted.

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

- (3) A ballot paper on which a vote is marked –
- (a) elsewhere than in the proper place,
 - (b) otherwise than by means of a clear mark,
 - (c) by more than one mark,

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

(4) The returning officer is to –

- (a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and
- (b) in the case of a ballot paper on which any vote is counted under paragraph (2) or (3) above, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

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

- (a) does not bear proper features that have been incorporated into the ballot paper,
- (b) voting for more candidates than the voter is entitled to,
- (c) writing or mark by which voter could be identified, and
- (d) unmarked or rejected because of uncertainty,

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

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

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

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

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

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

(3) At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in paragraphs (1) to (3) of rule stv44 has been complied with.

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

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

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

(3) The returning officer is, in accordance with this rule and rule stv43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (1)(a) to the candidate for whom the next available preference is given on those papers.

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

- (a) reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus, and
- (b) is calculated by dividing the surplus of the candidate from whom the votes are being transferred by the total number of the ballot papers on which those votes are given, the calculation being made to two decimal places (ignoring the remainder if any).

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

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

(6) The returning officer is, in accordance with this rule and rule stv43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (5)(a) to the candidate for whom the next available preference is given on those papers.

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

- (a) a transfer value calculated as set out in paragraph (4)(b) above, or
- (b) at the value at which that vote was received by the candidate from whom it is now being transferred,

whichever is the less.

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

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

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

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

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

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

- (a) The surpluses determined in respect of two or more candidates are equal, the transferable papers of the candidate who had the highest recorded vote at the earliest preceding stage at which they had unequal votes shall be transferred first, and
- (b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot, and the transferable papers of the candidate on whom the lot falls shall be transferred first.

(2) The returning officer shall, on each transfer of transferable papers under rule stv42 above –

- (a) record the total value of the votes transferred to each candidate,
- (b) add that value to the previous total of votes recorded for each candidate and record the new total,
- (c) record as non-transferable votes the difference between the surplus and the total transfer value of the transferred votes and add that difference to the previously recorded total of non-transferable votes, and
- (d) compare—
 - (i) the total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes, with
 - (ii) the recorded total of valid first preference votes.

(3) All ballot papers transferred under rule stv42 or stv44 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that paper or, as the case may be, all the papers in that sub-parcel.

(4) Where a ballot paper is so marked that it is unclear to the returning officer at any stage of the count under rule stv42 or stv44 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot paper as a non-transferable vote; and votes on a ballot paper shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

45. Exclusion of candidates – (1) If—

- (a) all transferable papers which under the provisions of rule stv42 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and
- (b) subject to rule stv45 below, one or more vacancies remain to be filled,

the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where paragraph (12) below applies, the candidates with the then lowest votes).

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

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

(3) The returning officer shall, in accordance with this rule and rule stv43 above, transfer each sub-parcel of ballot papers referred to in paragraph (2)(a) above to the candidate for whom the next available preference is given on those papers.

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

(5) If, subject to rule stv45 below, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable papers, if any, which had been transferred to any candidate excluded under paragraph (1) above into sub-parcels according to their transfer value.

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

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

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

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

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

- (a) record –
 - (i) the total value of votes, or
 - (ii) the total transfer value of votes transferred to each candidate,
- (b) add that total to the previous total of votes recorded for each candidate and record the new total,
- (c) record the value of non-transferable votes and add that value to the previous non-transferable votes total, and
- (d) compare—
 - (i) the total number of votes then recorded for each candidate together with the total number of non-transferable votes, with
 - (ii) the recorded total of valid first preference votes.

(11) If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with paragraphs (5) to (10) of rule stv42 and rule stv43.

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

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

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

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

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

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

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

47. Order of election of candidates – (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule stv42(10) above.

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

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

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

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

Part 7 – Final proceedings in contested and uncontested elections

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

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

- (b) give notice of the name of each candidate who he or she has declared elected—
 - (i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 4(4) of the 2003 Act, to the chairman of the NHS Trust, or
 - (ii) in any other case, to the chairman of the corporation; and
- (c) give public notice of the name of each candidate whom he or she has declared elected.

(2) The returning officer is to make –

- (a) the total number of votes given for each candidate (whether elected or not), and
- (b) the number of rejected ballot papers under each of the headings in rule fpp39(5),

available on request.

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

- (a) declare the candidates who are deemed to be elected under Part 6 of these rules as elected,
- (b) give notice of the name of each candidate who he or she has declared elected –
 - (i) where the election is held under a proposed constitution pursuant to powers conferred on the South Tees Hospitals NHS Foundation Trust by section 4(4) of the 2003 Act, to the chairman of the NHS Trust, or
 - (ii) in any other case, to the chairman of the corporation, and
- (c) give public notice of the name of each candidate who he or she has declared elected.

(2) The returning officer is to make –

- (a) the number of first preference votes for each candidate whether elected or not,
- (b) any transfer of votes,
- (c) the total number of votes for each candidate at each stage of the count at which such transfer took place,
- (d) the order in which the successful candidates were elected, and
- (e) the number of rejected ballot papers under each of the headings in rule stv39(1),

available on request.

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

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

Part 8 – Disposal of documents

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

- a. the counted ballot papers,
- b. the ballot papers endorsed with “rejected in part”,
- c. the rejected ballot papers, and
- d. the statement of rejected ballot papers.

(2) The returning officer must not open the sealed packets of –

- (a) the disqualified documents, with the list of disqualified documents inside it,
- (b) the declarations of identity,
- (c) the list of spoilt ballot papers,
- (d) the list of lost ballot papers,
- (e) the list of eligible voters, and
- (f) the list of tendered ballot papers.

(3) The returning officer must endorse on each packet a description of –

- (a) its contents,
- (b) the date of the publication of notice of the election,
- (c) the name of the corporation to which the election relates, and
- (d) the constituency, or class within a constituency, to which the election relates.

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

54. Forwarding of documents received after close of the poll – Where –

- a. any voting documents are received by the returning officer after the close of the poll, or
- b. any envelopes addressed to eligible voters are returned as undelivered too late to be resent, or
- c. any applications for replacement ballot papers are made too late to enable new ballot papers to be issued,

the returning officer is to put them in a separate packet, seal it up, and endorse and forward it to the chairman of the corporation.

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

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

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

56. Application for inspection of certain documents relating to an election – (1) The corporation may not allow the inspection of, or the opening of any sealed packet containing –

- a. any rejected ballot papers, including ballot papers rejected in part,
- b. any disqualified documents, or the list of disqualified documents,
- c. any counted ballot papers,
- d. any declarations of identity, or
- e. the list of eligible voters,

by any person without the consent of the Regulator.

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

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

- (a) persons,
- (b) time,

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- (c) place and mode of inspection,
- (d) production or opening,

and the corporation must only make the documents available for inspection in accordance with those terms and conditions.

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

- (a) in giving its consent, the regulator, and
- (b) and making the documents available for inspection, the corporation,

must ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established –

- (i) that his or her vote was given, and
- (ii) that the regulator has declared that the vote was invalid.

Part 9 – Death of a candidate during a contested election

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

- (a) countermand notice of the poll, or, if ballot papers have been issued, direct that the poll be abandoned within that constituency or class, and
- (b) order a new election, on a date to be appointed by him or her in consultation with the corporation, within the period of 40 days, computed in accordance with rule 3 of these rules, beginning with the day that the poll was countermanded or abandoned.

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

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

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

(5) The returning officer is to –

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

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

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

- (a) its contents,
- (b) the date of the publication of notice of the election,
- (c) the name of the corporation to which the election relates, and
- (d) the constituency, or class within a constituency, to which the election relates.

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

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

- (a) publish a notice stating that the candidate has died, and
- (b) proceed with the counting of the votes as if that candidate had been excluded from the count so that –
 - (i) ballot papers which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted, and
 - (ii) ballot papers which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences marked for the candidate who has died.

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

Part 10 – Election expenses and publicity

Election expenses

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

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

- (a) personal expenses,

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- (b) travelling expenses, and expenses incurred while living away from home, and
- (c) expenses for stationery, postage, telephone, internet (or any similar means of communication) and other petty expenses, to a limit of [£100].

61. Election expenses incurred by other persons – (1) No person may -

- (a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise, or
- (b) give a candidate or his or her family any money or property (whether as a gift, donation, loan, or otherwise) to meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.

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

Publicity

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

- a. compile and distribute such information about the candidates, and
- b. organise and hold such meetings to enable the candidates to speak and respond to questions,

as it considers necessary.

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

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

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

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

(2) The information must consist of –

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

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

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

Part 11 – Questioning elections and the consequence of irregularities

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

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

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

- (a) a person who voted at the election or who claimed to have had the right to vote, or
- (b) a candidate, or a person claiming to have had a right to be elected at the election.

(4) The application must –

- (a) describe the alleged breach of the rules or electoral irregularity, and
- (b) be in such a form as the Regulator may require.

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

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

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

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

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

Part 12 – Miscellaneous

66. Secrecy – (1) The following persons –

- a. the returning officer,
- b. the returning officer’s staff,

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

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

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

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

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

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

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

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

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- a. the delivery of the documents in rule 24, or
- b. the return of the ballot papers and declarations of identity,

the returning officer may extend the time between the publication of the notice of the poll and the close of the poll, with the agreement of the Regulator.

ANNEX 5 – ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS

1. ELIGIBILITY TO BECOME A MEMBER OF THE COUNCIL OF GOVERNORS

A person may not become a member of the Council of Governors, and if already holding such office will immediately cease to do so, if:

- 1.1 They are a Director of the Trust, or a Governor or Director of another NHS Foundation Trust or any other NHS body (unless they are appointed as a member of the Council of Governors by an appointing organisation).
- 1.2 They have previously been an Executive or Non-Executive Director of the Trust.
- 1.3 They are the spouse, partner, parent or child of a member of the Board of Directors of the Foundation Trust.
- 1.4 They are under the age of 16.
- 1.5 They are a member of a Local Authority's Overview and Scrutiny Committee covering health matters.
- 1.6 They are a member of the executive/management committee of a Healthwatch organisation (unless they are appointed as a member of the Council of Governors by that organisation).
- 1.7 Being a member of the Public Constituency they refuse or fail to sign a declaration, in the form specified by the Council of Governors, giving particulars of their qualification to vote as a member of the Trust, and that they are not prevented from being a member of the Council of Governors.
- 1.8 They are a vexatious complainant of the Trust, as defined by Trust policy.
- 1.9 They have been involved within the last 10 years as a perpetrator in a serious incident of assault or violence, or in one or more incidents of harassment, against any of the Trust's employees or other persons who exercise functions for the purposes of the Trust, or against registered volunteers.
- 1.10 They have been excluded from any of the Trust premises within the last 10 years.
- 1.11 Their name has been placed on a register of individuals who have committed an offence covered by Schedule 1 of the Children and Young Persons Act 1933 and / or they are required to register under the Sexual Offences Act 2003, or an individual who is subject to a Sex Offender Order or who has committed a sexual offence prior to the requirement to register under current legislation.

- 1.12 On the basis of disclosures obtained through an application to the Criminal Records Bureau, they are not considered suitable in accordance with the Trust's Policy.
- 1.13 They have within the preceding two years been lawfully dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body.
- 1.14 They are a person whose tenure of office as the Chairman or as a member or Director of a health service body has been terminated on the grounds that their appointment is not in the interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest.
- 1.15 They have been removed from membership of a professional body or from a list of registered medical, dental, nursing or other health care practitioners as a result of disciplinary action or any conclusion that the continued inclusion of that person's name on any such list or membership of any such professional body would be prejudicial to the efficiency of the services to which the professional body or list relates and have not subsequently been re-instated to membership or such a list.

2. TERMINATION OF OFFICE AND REMOVAL OF MEMBERS OF THE COUNCIL OF GOVERNORS

A person holding office as a member of the Council of Governors shall immediately cease to do so if:

- 2.1 They resign by notice in writing to the Company Secretary.
- 2.2 The governor is appointed as a Non-Executive Director of South Tees Hospitals NHS Foundation Trust.
- 2.3 Their circumstances change so that they are ineligible under the general terms of eligibility of Governors as set out in the main body of this constitution in section 11.3, and 14.
- 2.4 It otherwise comes to the notice of the Company Secretary at the time the member of the Council of Governors takes office or later that the member of the Council of Governors is disqualified in accordance with paragraph 14 of the Constitution.
- 2.5 They fail to attend three meetings in any financial year, unless the members of the Council of Governors are satisfied that:
 - a) the absences were due to reasonable causes; and they will be able to start attending meetings of the Council of Governors again within such a period as the Council of Governors consider reasonable

- 2.6 In the case of an elected member of the Council of Governors, they cease to be a member of the Trust. Where a Governor moves from one area of the Public Constituency to another, the Governor would continue to be eligible to be a member of the Trust but would need to cease holding office because they would no longer be eligible to represent the area that had elected them.
- 2.7 In the case of an appointed member of the Council of Governors, the appointing organisation terminates the appointment.
- 2.8 They have failed to undertake any training which the Council of Governors requires all members of the Council of Governors to undertake, unless the members of the Council of Governors are satisfied that:
- a) The failure to undertake training was due to reasonable causes; and
 - b) They will be able to undertake the required training within such a period as the Council of Governors consider reasonable.
- 2.9 They have failed to sign and deliver to the Company Secretary a statement in the form required by the Council of Governors confirming acceptance of the Trust's and/or the Council of Governors Code of Conduct.
- 2.10 He/she is removed from the Council of Governors by a resolution approved by a majority of the remaining members of the Council of Governors present and voting at a General Meeting on the grounds that:
- a) They have committed a serious breach of the Trust's and/or Council of Governors Code of Conduct, which may include chairman's action for removal of a Governor if serious breaches of the Code have occurred, as set out in section 5 and 6 of the Code of Conduct for Governors; or
 - b) They have acted in a manner detrimental to the interests of the Trust, or
 - c) They have failed to discharge their responsibilities as a member of the Council of Governors.
- 2.11 He/she fails to disclose any interest required to be disclosed in meetings and decisions of the Council of Governors, and a majority of the Council of Governors approves his/her removal from office.

3. REQUIREMENT OF MEMBER OF THE COUNCIL OF GOVERNORS TO NOTIFY TRUST

Where a person has been elected or appointed to be a member of the Council of Governors and they become disqualified from holding office as described in Annex 6 of this constitution, they shall notify the Company Secretary in holding writing of such disqualifications.

4. TENURE OF OFFICE FOR THE COUNCIL OF GOVERNORS

All Governors will have three year tenures.

An elected Governor shall be eligible for re-election at the end of his/her term and shall serve no more than three consecutive terms of office (or a maximum of 9 years in total).

An appointed Governor shall cease to hold office if the appointing organisation withdraws its sponsorship of him.

An appointed Governor shall be eligible for re-appointment at the end of his/her term and shall serve no more than three consecutive terms of office (or a maximum of 9 years in total).

5. VACANCIES ON THE COUNCIL OF GOVERNORS

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

- 5.1 Where the vacancy arises amongst the appointed members of the Council of Governors, the Company Secretary shall request that the appointing organisation appoints a replacement to hold office for the remainder of the term of office.
- 5.2 Where the vacancy arises amongst the elected members within 12 months following an election to that seat, the Trust shall approach the person who polled the next highest number of votes in the original election and offer the vacant seat to them for the remainder of that term of office, with the proviso that the candidate will need to be a member of the same constituency and class as that in relation to where the vacancy has arisen. Should that person decline, the Trust shall make a similar approach to the next highest polling candidate. The Trust shall continue to make such approaches to the candidates for such seat in descending order of their polled number of votes until the seat is filled. Where there is no next in line candidate or none of the other candidates for the seat want to, or are able to, fill the vacancy an election will be called by the Council of Governors.

6. EXPENSES

- 6.1 The Trust may pay travel and other expenses to members of the Council of Governors at rates determined by the Trust.
- 6.2 Expenses incurred shall be reimbursed in line with the appropriate Trust policies.
- 6.3 Appointed Governors will not be entitled to recover their expenses where their employer would normally provide reimbursement.

7. STAFF CONSTITUENCY

- 7.1 The Trust will grant reasonable time off, with pay, to recognise staff Governors to carry out Governor duties.
- 7.2 Where time off is requested, this will be done in accordance with the Trust's human resources policies and procedures.

8. ROLES AND RESPONSIBILITIES

The roles and responsibilities of members of the Council of Governors are:

- a) **Advisory** – Communicating to the Board wishes of members and the wider community.
- b) **Guardianship** – Ensuring that the Trust is operating in accordance with its Terms of Authorisation. In this regard it acts as a Trustee for the welfare of the organisation.
- c) **Strategic** – Advising on the longer term direction to help the Board effectively determine its policies.

In particular the members of the Council of Governors are to:

- 8.1 Develop the membership of the Trust and represent interests of members.
- 8.2 Give the views of the Council of Governors to the Board of Directors for the purposes of the preparation (by the Directors) of the document containing information on the Trust's forward planning in respect of each financial year to be given to the Independent Regulator of NHS Foundation Trusts.
- 8.3 Respond to any matter as appropriate when consulted by the Directors.
- 8.4 Appoint and remove the Chairman and the other Non-executive Directors in accordance with this Constitution.

- 8.5 Decide the remuneration and allowances, and the other terms and conditions of office, of the Chairman and other Non-executive Directors in accordance with this Constitution.
- 8.6 Approve the appointment of the Chief Executive in accordance with this Constitution.
- 8.7 Consider the annual accounts, any reports of the auditor on them, and the annual report.
- 8.8 Appoint and remove the Trust's external auditor.

9. APPOINTMENT OF NON-EXECUTIVE DIRECTORS (including Chairman and Deputy Chairman)

- 9.1 In accordance with the NHS Foundation Trust Code of Governance the Council of Governors shall establish a Committee of the Council of Governors and the Board. The committee will evaluate the balance of skills, knowledge and experience of the Board and, in light of this evaluation, prepare a description of the roles and capabilities required for a particular appointment of both Executive and Non-Executive Directors (including the Chairman). The Committee shall comprise three members of the Council of Governors and two Directors (at least one of whom will be a Non-executive Director). The Committee may have an independent assessor in attendance if appropriate.
- 9.2 The Council of Governors will take into account the views of the Board of Directors on the balance of individual skills and experience it requires at the time a vacancy arises.
- 9.3 Suitable candidates will be identified by the Board of Directors which may, if it considers it appropriate in particular circumstances, engage an external organisation, recognised as expert in this field, to assist it in the whole process (including the work involved in 9.1 above).

10. REMUNERATION OF THE CHAIRMAN AND OTHER NON-EXECUTIVE DIRECTORS

In order to determine the proper level of remuneration and allowances that should be paid to the Chairman and other Non-executive Directors the Council of Governors may, from time to time, and at least every three years, consult, at the Trust's expense, with external professional advisers.

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

FOREWORD

South Tees Hospitals NHS Foundation Trust (the “Trust”) is a public benefit corporation that was established in accordance with the provisions of National Health Service Act 2006.

These Standing Orders (SOs) are for the regulation of the Trust’s Council of Governors proceedings and business.

The Council of Governors will conduct its business in an open a way as possible and will:

1. Observe the Nolan principles of Public Life of selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
- 2 At all times seek to comply with the NHS Foundation Trust Code of Governance; and
- 3 At all times seek to comply with the Combined Code on Corporate Governance 2003.

Everything done by the Council of Governors should be able to stand the test of scrutiny, public judgment on propriety, and professional codes of conduct.

The Council of Governors will in its business be as transparent as it can be about its activities to promote confidence between the Council of Governors, the membership, the Board of Directors, staff, services users and the public.

COUNCIL OF GOVERNORS – STANDING ORDERS

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1. INTERPRETATION

- 1.1 Save as permitted by law, the Chairman of the Trust shall be the final authority on the interpretation of Standing Orders (on which he/she shall be advised by the Company Secretary, Chief Executive and Director of Finance).
- 1.2 Any expression to which a meaning is given in the National Health Service Act 2006 has the same meaning in this interpretation and in addition:
- a) **ACCOUNTABLE OFFICER** shall be the officer responsible and accountable for funds entrusted to the Trust. He/she shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the Chief Executive.
 - b) **BOARD** means the Board of Directors, formally constituted in accordance with this Constitution and consisting of a Chairman, and Non-executive Directors, appointed by the Council of Governors and the Executive Directors, appointed by the Non-executive Directors and (except for his/her own appointment) by the Chief Executive.
 - c) **BUDGET** shall mean 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.
 - d) **CHAIRMAN** is the person appointed by the Council of Governors as a Non-Executive Chairman to lead the Board of Directors and Council of Governors to ensure it successfully discharges its overall responsibility for the Trust as a whole.
 - e) **CHIEF EXECUTIVE** shall mean the accountable officer of the Trust.
 - f) **COMMITTEE OF THE COUNCIL** means a committee formed by the Council of Governors with specific Terms of Reference, chair and membership.
 - g) **COMMITTEE OF THE BOARD** means a committee formed by the Board with specific Terms of Reference, Chair and Membership.
 - h) **COUNCIL** means the Council of Governors, formally constituted in accordance with this Constitution meeting in public and presided over by the Chairman.
 - i) **COUNCIL MEMBER** means a person elected or appointed to the Council of Governors.
 - j) **DIRECTOR** means a person appointed to the Board of Directors

- k) **DEPUTY CHAIRMAN** means the Non-Executive Director appointed by the Council of Governors to take on the Chairman's duties if the Chairman is absent for any reason.
- l) **DIRECTOR OF FINANCE** shall mean the Chief Finance Officer of the Trust who will ensure compliance with Standing Financial Instructions.
- m) **FUNDS HELD ON TRUST** shall mean those funds which the Trust holds at its date of incorporation, receives on distribution by statutory instrument, or chooses subsequently to accept under powers derived under Schedule 3 and 4 para 14.1c National Health Service Act 2006. Such funds may or may not be charitable.
- n) **MEMBER** means a person registered as a member of one of the constituencies of the Trust as outlined in this Constitution.

MONITOR or TRUST REGULATOR is the body corporate known as Monitor, referred to in Section 61 of the 2012 Act which operates with the National Health Service Trust Development Authority as NHS Improvement.

- o) **MOTION** means a formal proposition to be discussed and voted on during the course of a meeting.
- p) **NOMINATED OFFICER** means an officer charged with the responsibility for discharging specific tasks within Standing Orders in line with the 2006 Act.
- q) **NON-EXECUTIVE DIRECTOR** is a person appointed by the Council of Governors to be a member of the Board of Directors. Initially Non executives of the applicant NHS Trust will become Non-executives of the Foundation Trust, unless they choose not to do so. This includes the chairman of the Trust.
- r) **OFFICER** means an employee of the Trust
- s) **SOs** means Standing Orders
- t) **SFIs** means Standing Financial Instructions
- u) **TRUST** means South Tees Hospitals NHS Foundation Trust.
- v) **COMPANY SECRETARY** this role will act as independent advice to the Board and monitor the Trust's compliance with its terms of authorisation and constitution.

2. GENERAL INFORMATION

- 2.1 The purpose of the Council of Governors' Standing Orders is to ensure that the highest standards of Corporate Governance and conduct are applied to all Council meetings and associated deliberations. The Council shall at all times seek to comply with the NHS Foundation Trust Code of Governance which is founded on "The Combined Code".

- 2.2 All business shall be conducted in the name of the Trust.
- 2.3 A member of the Council of Governors who has acted honestly and in good faith will not have to meet out of his or her own personal resources any personal civil liability which is incurred in the execution or purported execution of his or her functions as a member of the Council of Governors save where the member of the Council of Governors has acted recklessly. On behalf of the Council of Governors and as part of the Trust's overall insurance arrangements the Board shall put in place appropriate insurance provision to cover such indemnity at the discretion of the Trust.

3. COMPOSITION OF THE COUNCIL OF GOVERNORS

- 3.1 The composition of the Council of Governors shall be in accordance with the Trust's Constitution.
- 3.2 **Appointment of the Chairman and Deputy Chairman of the Council of Governors** - The Chairman or in the absence or incapacity of the Chairman the Deputy Chairman of the Trust will preside over meetings of the Council of Governors.
- 3.3 **Duties of the Deputy Chairman** – Where the Chairman has died or has otherwise ceased to hold office or where he/she has been unable to perform his/her duties as a Chairman owing to illness, absence from England and Wales or any other cause, references to the Chairman shall, so long as there is no Chairman able to perform his/her duties, be taken to include to the Deputy Chairman.
- 3.4 **Removal of the Chairman or Deputy Chairman of the Council of Governors** – it shall be for the Council of Governors to determine the period of office for the Chairman and Deputy Chairman, excluding the initial Chairman and Deputy Chairman, of the Council of Governors, which shall normally be for a period of up to three years after which the Council of Governors shall review the appointment. Should there be the requirement to remove the Chairman or Deputy Chairman of the Council of Governors this shall be carried out in accordance with SO 4.6.6.

4. MEETINGS OF THE COUNCIL OF GOVERNORS

- 4.1 **Meetings held in Public**
- 4.1.1 Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting (whether for the whole or part of such meeting) for special reasons as determined by the Chairman in conjunction with the Council of Governors which may include, but are not limited to, the following reasons

- i. Publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted; or
 - ii. There are special reasons stated in the resolution and arising from the nature of the business of the proceedings;
- 4.1.2 The Chairman may exclude any member of public from the meeting of the Council if they are interfering with or preventing the reasonable conduct of the meeting.
- 4.1.3 Meetings of the Council of Governors shall be held at least four times each year, inclusive of an Annual General Meeting, at times and places that the Council of Governors may determine.
- 4.1.4 The Council may invite the Chief Executive of the Trust, and other appropriate Directors, to attend any meeting of the Council of Governors and enable members of the Council of Governors to raise questions about the Trust affairs.

4.2 Calling Meetings

Notwithstanding, 4.1.4 above, the Chairman may, in exceptional circumstances, call a meeting of the Council of Governors at any time. If the Chairman refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of the members of the Council of Governors, or if without so refusing the Chairman does not call a meeting within fourteen days after a requisition to do so, then the members of the Council of Governors may forthwith call a meeting provided they have been requisitioned to do so by more than 50% of the members of the Council of Governors.

4.3 Notice of Meetings

- 4.3.1 Before each meeting of the Council of Governors, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chairman, or by an officer of the Trust authorised by the Chairman to sign on their behalf, shall be delivered to every member of the Council of Governors, or sent by post to the usual place of residence of such member of the Council of Governors, at least 5 clear working days before the meeting.
- 4.3.2 The Company Secretary should ensure that a notice of a meeting of the Council of Governors is publicised to the public.

4.4 Setting the Agenda

The agenda for the meeting of the council of governors will be circulated with the notice of the meeting and any supporting papers.

- 4.4.1 The Council of Governors may determine that certain matters shall appear on every agenda for a meeting of the Council of Governors

and shall be addressed prior to any other business being conducted.

- 4.4.2 The Council of Governors will agree an annual programme of work proposed by the Board of Directors to ensure they discharge their responsibilities as governors.
- 4.4.3 A member of the Council of Governors desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman at least ten clear working days before the meeting. Requests made less than ten days before a meeting may be included on the agenda at the discretion of the Chairman.

4.5 Chairman of the Meeting

At any meeting of the Council of Governors, the Chairman, if present, shall preside, initially this shall be the Chairman of the Trust in accordance with SO 3.2. If the Chairman is absent from the meeting the Deputy Chairman shall preside, initially this shall be the Deputy Chairman of the Trust in accordance with SO 3.2.

4.6 Notices and Motions

- 4.6.1 A member of the Council of Governors desiring to move or amend a motion shall send a written notice thereof at least 10 clear working days before the meeting to the Chairman, who shall insert in the agenda for the meeting, all notices so received subject to the notice given being permissible under the appropriate regulations. This paragraph shall not prevent any motion being moved during the meeting, without notice, on any business mentioned on the agenda subject to section 4.3 of these Standing Orders.
- 4.6.2 A motion or amendment, once moved and seconded, may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Chairman.
- 4.6.3 Notice of motion to amend or rescind any resolution (or the general substance of any resolution), which has been passed within the preceding six calendar months, shall bear the signature of the members of the Council of Governors who give it and also the signature of four other members of the Council of Governors. When any such motion has been disposed of by the Council of Governors it shall not be competent for any member of the Council of Governors, other than the Chairman, to propose a motion to the same effect within six months; however the Chairman may do so if he/she considers it appropriate.
- 4.6.4 The mover of a motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.

4.6.5 When a motion is under discussion or immediately prior to discussion it shall be open to a member of the Council of Governors to move:

- a) An amendment to the motion.
- b) The adjournment of the discussion or the meeting.
- c) That the meeting proceeds to the next business.
- d) That the motion shall be now put.

Such a motion, if seconded, shall be disposed of before the motion which was originally under discussion or about to be discussed.

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

In the case of motions under c) and d), to ensure objectivity motions may only be put by a member of the Council of Governors who has not previously taken part in the debate.

4.6.6 A motion to remove the Chairman or a Non-executive Director must be seconded by 10 members of the Council of Governors.

4.7 Chairman's Ruling

4.7.1 Statements of members of Governors made at the meetings of the Council of Governors shall be relevant to the matter under discussion at the material time and the decision of the Chairman of the meeting on questions of order, relevancy, regularity and any other matters shall be observed at the meeting.

4.8 Voting

4.8.1 Decisions at meetings shall be determined by a majority of the votes of the members of the Council of Governors present and voting, with the exception of the appointment and removal of the Chair or a Non-executive Director, which should require approval by three quarters of the Council of Governors.

4.8.2 In the case of any equality in votes, the Trust Chairman shall have a second or casting vote (out with the provisions of 22.2 of the constitution).

4.8.3 All decisions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the members of the Council of Governors present so request.

4.8.4 If at least one-third of the members of the Council of Governors present so request, the voting (other than by paper ballot) on any

question may be recorded to show how each member of the Council of Governors voted or abstained.

- 4.8.5 If a member of the Council of Governors so requests, his/her vote shall be recorded by name upon any vote (other than a paper ballot).
- 4.8.6 In no circumstances may an absent member of the Council of Governors vote by proxy. Absence is defined as being absent at the time of the vote.

4.9 Suspension of Standing Orders (SOs)

Except where this would contravene any provision of the constitution or any direction made by the Independent Regulator of NHS Foundation Trusts, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Council of Governors are present, including the Chair or Deputy Chair, and that a majority of those present vote in favour of suspension.

- 4.9.1 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.
- 4.9.2 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Directors.
- 4.9.3 No formal business may be transacted while Standing Orders are suspended.
- 4.9.4 The Audit Committee shall review every decision to suspend Standing Orders.

4.10 Record of Attendance

- 4.10.1 The names of the members of the Council of Governors present at the meeting shall be recorded in the minutes.

4.11 Minutes

- 4.11.1 The minutes of the proceedings of the meeting shall be drawn up and maintained as a public record. They will be submitted for agreement at the next meeting where they will be signed by the person chairing it.
- 4.11.2 No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.

- 4.11.3 Minutes shall be circulated in accordance with the members of the Council of Governors' wishes. The minutes of the meeting shall be made available to the public except for minutes relating to business conducted when members of the public are excluded under the terms of section 4.1 of these Standing Orders.

4.12 Quorum

- 4.12.1 No business shall be transacted at a meeting of the Council of Governors unless; at least one third of Governors are present (which must include at least one elected and one appointed Governor).
- 4.12.2 If a member of the Council of Governors has been disqualified from participating in the discussion of any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest he/she shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

5. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

- 5.1 **Emergency Powers** – The powers which the Council of Governors has retained to itself within these Standing Orders may in emergency be exercised by the Chairman after having consulted at least five elected members of the Council of Governors. The exercise of such powers by the Chairman shall be reported to the next formal meeting of the Council for ratification.
- 5.2 **Delegation to Committees** – The Council of Governors will establish a Nominations Committee to fulfill the duty of advising the Council of Governors on the appointment of Non-Executive Directors and Chairman.

6. SUBCOMMITTEES – FURTHER PROVISIONS

- 6.1 The Council of Governors will review and agree with the Chairman an annual programme of work which will include and refer to the establishment of any sub committees of the Council of Governors to assist where appropriate in fulfilling its work programme. This will be reviewed on an annual basis in accordance with best practice.
- 6.2 These Standing Orders, as far as they are applicable, shall apply also, with the appropriate alteration, to meetings of any committees or sub-committees established by the Council.

7. CONFIDENTIALITY

- 7.1 A member of the Council of Governors or an attendee on a committee of the Council shall not disclose a matter dealt with by, or brought before, the committee without its permission or until the committee shall have reported to the Council or shall otherwise have concluded on that matter.
- 7.2 A member of the Council of Governors or a non-member of the Council of Governors in attendance at a committee shall not disclose any matter dealt with by the committee, notwithstanding that the matter has been reported or action has been concluded, if the Council of Governors or committee resolves that it is confidential.

8. DECLARATION OF INTERESTS AND REGISTER OF INTERESTS

8.1 Declaration of Interests

If a governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the governor shall disclose that interest to the members of the Council of Governors as soon as he/she becomes aware of it.

8.1.1 Interests regarded in 8.1 above may include but are not exclusive to:

- 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) Employment with any private company, business or consultancy.
- d) Shareholdings in organisations likely or possibly seeking to do business with the NHS.
- e) A position of authority in a charity or voluntary organisation in the field of health and social care.
- f) Any connection with a voluntary or other organisation contracting for NHS Services.

8.1.2 If a member of the Council of Governors has any doubt about the relevance of an interest, they should discuss it with the Chairman or Company Secretary who shall advise them whether or not to disclose the interest.

- 8.1.3 At the time members of the Council of Governors' interests are declared, they should be recorded in the Council of Governors' minutes and entered in a Register of Interests of members of the Council of Governors to be maintained by the Company Secretary. Any changes in interests should be declared at the next Council meeting following the change occurring.
- 8.1.4 Members of the Council of Governors' directorships of companies likely or possibly seeking to do business with the NHS should be published in the Trust's annual report.
- 8.1.5 During the course of a Council meeting, if a conflict of interest is established, the member of the Council of Governors concerned shall, unless two-thirds of those Members of the Council of Governors present agree otherwise withdraw from the meeting and play no part in the relevant discussion or decision.
- 8.1.6 The interests of the members of the Council of Governors' spouses or partners shall be declared in accordance with section 17 of the Trusts constitution.

8.2 Register of Interests

- 8.2.1 The Company Secretary will ensure that a Register of Interests is established to record formally declarations of interests of members of the Council of Governors.
- 8.2.2 Details of the Register will be kept up to date and reviewed annually.
- 8.2.3 The Register will be available for inspection by members of the public.

9. COMPLIANCE – OTHER MATTERS

- 9.1 Members of the Council of Governors of the Trust shall comply with Standing Financial Instructions prepared by the Director of Finance and approved by the Board of Directors for the guidance of all staff employed by the Trust.
- 9.2 Members of the Council of Governors must behave in accordance with the seven Nolan principles of behaviour in Public Life, and both the Trust's and Council of Governors Code of Conduct as amended from time to time:

- **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends

- **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties

- **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit

- **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office

- **Openness**

Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

- **Honesty**

Holders of public office have a duty to declare any private interest relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest

- **Leadership**

Holders of public office should promote and support these principles by leadership and example

10. RESOLUTION OF DISPUTES WITH BOARD OF DIRECTORS

10.1 The Council of Governors has three main roles:

- **Advisory** Communicating to the Board the wishes of members and the wider community.

- **Guardianship** Ensuring that the Trust is operating in accordance with its Terms of Authorisation. In this regard it acts as a Trustee for the welfare of the organisation.
- **Strategic** Advising on the longer term direction to help the Board effectively determine its policies.

10.2 The Board of Directors has overall responsibility for running the affairs of the Trust. Its role is to:

- Note advice from, and consider the views of the Council of Governors;
- Set the strategic direction and leadership of the Trust;
- Ensure the Terms of Authorisation are complied with;
- Set organisational and operational targets;
- Assess, manage and minimise risk;
- Assess achievement against the above objectives;
- Ensure that action is taken to eliminate or minimise, as appropriate, adverse deviations from objectives;
- Ensure that the highest standards of Corporate Governance are applied throughout the organisation.

10.3 Should a dispute arise between the Council and the Board of Directors then the disputes resolution procedure set out below recognises the different roles of the Council and the Board as described above.

10.3.1 The Chairman, or Deputy Chairman (if the dispute involves the Chairman) of the Board and the Council of Governors, shall first endeavour through discussion with members of the Council of Governors and Directors or appropriate representatives of them, to achieve the earliest possible conclusion and to resolve the matter to the reasonable satisfaction of both parties.

10.3.2 Failing resolution under 10.3.1 above then the Board or the Council, as appropriate, shall at its next formal meeting approve the precise wording of a Disputes Statement setting out clearly and concisely the issue or issues giving rise to the dispute.

10.3.3 The Chairman, or Deputy Chairman (if the dispute involves the Chairman) of the Board and the Council of Governors, shall ensure that the Disputes Statement, without amendment or abbreviation in any way, shall be an agenda item and agenda paper at the next formal meeting of the Board or Council as appropriate. That meeting shall agree the precise wording of a Response to Disputes Statement.

- 10.3.4 The Chairman, or Deputy Chairman (if the dispute involves the Chairman) of the Board and the Council of Governors, shall immediately, or as soon as is practicable communicate the outcome to the other party and deliver the written Response to Disputes Statement. If the matter remains unresolved or only partially resolved then the procedure outlined in 10.3.1 above shall be repeated.
- 10.3.5 If, in the opinion of the Chairman, or Deputy Chairman (if the dispute involves the Chairman) of the Board and the Council of Governors, and following the further discussions prescribed in 10.3.4, there is no further prospect of a full resolution or, if at any stage in the whole process, in the opinion of the Chairman, or Deputy Chairman (if the dispute involves the Chairman) of the Board and the Council of Governors, as the case may be, there is no prospect of a resolution (partial or otherwise) then they shall advise the Council and the Board accordingly.
- 10.3.6 On the satisfactory completion of this disputes process the Board of Directors shall implement the agreed changes.
- 10.3.7 On the unsatisfactory completion of this disputes process the view of the Board of Directors shall prevail.
- 10.4 Nothing in this procedure shall prevent the Council, if it so desires, from informing the Independent Regulator of NHS Foundation Trusts that, in the Council's opinion, the Board has not responded constructively to concerns of the Council of Governors and that the Trust is not meeting the terms of its authorisation.

11. CHANGES TO STANDING ORDERS

11.1 These Standing Orders shall be amended only if:

- 11.1.1 A notice of motion under Standing Order 4.6 has been given; and
- 11.1.2 No fewer than half the total of the members of the Council of Governors vote in favour of amendment; and
- 11.1.3 At least two thirds of the voting members are present; and
- 11.1.4 The variation proposed does not contravene a statutory provision or a direction made by the Regulator of NHS Foundation Trusts and
- 11.1.5 The amendment is agreed by the Board of Directors; and
- 11.1.6 The amendments agreed by the Board of Directors are approved by the Independent Regulator of NHS Foundation Trusts.

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

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1. INTRODUCTION

The principal place of business of the Trust is The James Cook University Hospital, Marton Road, Middlesbrough.

NHS Foundation Trusts are governed by a Regulatory Framework that confers the functions of the Trust and comprises: Acts of Parliament and in particular the National Health Service Act 2006 ('the 2006 Act'); their constitutions; and the terms of their authorisation granted by the Independent Regulator of NHS Foundation Trusts ('the Independent Regulator').

The Regulatory Framework requires the Board of Directors to adopt Standing Orders for the practice and procedure of the Board of Directors. The Board of Directors will conduct its business in as open a way as possible and will:

- a) Observe the Nolan principles of Public Life of selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
- b) At all times seek to comply with the NHS Foundation Trust Code of Governance; and
- c) At all times seek to comply with the Combined Code on Corporate Governance 2003. Everything done by the Trust should be able to stand the test of scrutiny, public judgment on propriety, and professional codes of conduct.

These Standing Orders (SOs) are for the regulation of the Board of Directors' proceedings and business.

2. INTERPRETATION

- 2.1 Save as permitted by law, at any meeting the Chairman of the Trust shall be the final authority on the interpretation of Standing Orders on which he/she should be advised by the Company Secretary, Chief Executive and Director of Finance.
- 2.2 Any expression to which a meaning is given in the Health Service Acts or in the Regulations or Orders made under the Acts shall have the same meaning in this interpretation and in addition:
 - a) **ACCOUNTABLE OFFICER** shall be the officer responsible and accountable for funds entrusted to the Trust. He shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the Chief Executive.
 - b) **BOARD** means the Board of Directors, formally constituted in accordance with this Constitution and consisting of a Chairman, and Non-executive Directors, appointed by the Council of Governors and the Executive Directors, appointed by the Non-executive Directors and (except for his/her own appointment) by the Chief Executive.

- c) **BUDGET** shall mean 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.
- d) **CHAIRMAN** is the person appointed by the Council of Governors as a Non-Executive Chairman to lead the Board of Directors and Council of Governors to ensure it successfully discharges its overall responsibility for the Trust as a whole.
- e) **CHIEF EXECUTIVE** shall mean the accountable officer of the Trust.
- f) **COMMITTEE OF THE COUNCIL** means a committee formed by the Council of Governors with specific Terms of Reference, chair and membership.
- g) **COMMITTEE OF THE BOARD** means a committee formed by the Board with specific Terms of Reference, Chair and Membership.
- h) **COUNCIL** means the Council of Governors, formally constituted in accordance with this Constitution meeting in public and presided over by the Chairman.
- i) **COUNCIL MEMBER** means a person elected or appointed to the Council of Governors.
- j) **DIRECTOR** means a person appointed to the Board of Directors
- k) **DEPUTY CHAIRMAN** means the Non-Executive Director appointed by the Council of Governors to take on the Chairman's duties if the Chairman is absent for any reason.
- l) **DIRECTOR OF FINANCE** shall mean the Chief Finance Officer of the Trust who will ensure compliance with Standing Financial Instructions.
- m) **FUNDS HELD ON TRUST** shall mean those funds which the Trust holds at its date of incorporation, receives on distribution by statutory instrument, or chooses subsequently to accept under powers derived under Schedule 3 and 4 para 14.1c National Health Service Act 2006. Such funds may or may not be charitable.
- n) **MEMBER** means a person registered as a member of one of the constituencies of the Trust as outlined in this Constitution.
- o) **MONITOR or TRUST REGULATOR** is the body corporate known as Monitor, referred to in Section 61 of the 2012 Act which operates with National Health Service Trust Development Authority as NHS Improvement.
- p) **MOTION** means a formal proposition to be discussed and voted on during the course of a meeting.

- q) **NOMINATED OFFICER** means an officer charged with the responsibility for discharging specific tasks within Standing Orders in line with the 2006 Act.
- r) **NON-EXECUTIVE DIRECTOR** is a person appointed by the Council of Governors to be a member of the Board of Directors. Initially Non executives of the applicant NHS Trust will become Non-executives of the Foundation Trust, unless they choose not do so. This includes the chairman of the Trust.
- s) **OFFICER** means an employee of the Trust
- t) **SOs** means Standing Orders
- u) **SFIs** means Standing Financial Instructions
- v) **TRUST** means South Tees Hospitals NHS Foundation Trust.
- w) **COMPANY SECRETARY** this role will act as independent advice to the Board and monitor the Trust's compliance with its terms of authorisation and constitution.

3. THE BOARD OF DIRECTORS – ITS COMPOSITION, APPOINTMENTS AND INDEMNITY ARRANGEMENTS

- 3.1 All business shall be conducted in the name of the Trust.
- 3.2 All funds received in Trust shall be in the name of the Trust as corporate trustee. In relation to funds held on Trust, powers exercised by the Trust as corporate trustee shall be exercised separately and distinctly from those powers exercised as a Trust.
- 3.3 All the powers of the Trust shall be exercised by the Board of Directors on its behalf.
- 3.4 The Board of Directors has resolved that certain powers and decisions may only be exercised or made by the Board. These powers and decisions are set out in "Reservation of Powers to the Board" and have effect as if incorporated into the Standing Orders. The Board of Directors must adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals.

3.5 Composition of the Board of Directors

The composition of the Board of Directors will be:

- The Chairman of the Trust (Non-Executive Director as required by Schedule 7 of the NHS Act 2006)
- Within the range of 5-8 other Non-Executive Directors

- Within the range of 5-8 Executive Directors including:
- One of the executive Directors shall be the Chief Executive.
- The Chief Executive shall be the Accounting Officer.
- One of the executive Directors shall be the Finance Director.
- One of the executive Directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).
- One of the executive Directors is to be a registered nurse or registered midwife.
- The Company Secretary to the Board of Directors will be in attendance at all Board meetings.

3.5.1 The number of Directors may be increased, (within the range of 5 – 8 as outlined above) with the approval of the Board, provided always at least half the Board, excluding the Chairman, comprises Non-executive Directors determined by the Board to be independent.

3.6 Terms of Office of the Chairman and Members of the Board

3.6.1 Guidance relating to the period of tenure of office of the Chairman and Non-executive Directors and the termination or suspension of office of the Chairman and Directors is contained in the Foundation Trust Code of Governance.

3.6.2 Non-Executive Directors including the Chairman will be appointed by the Council of Governors for a period of 3 years and subject to re-appointment thereafter at intervals of 3 years. Any term beyond six years for a Non-executive Director will be subject to rigorous review by the Council of Governors. Non-Executive Directors may serve more than nine years subject to an annual re-appointment.

3.7 Appointment of the Chairman and Non-executive Directors

The Chairman and Non-executive Directors are to be appointed/removed by the Council of Governors in accordance with the constitution.

3.8 Appointment of Deputy Chairman

The Council of Governors at a general meeting of the Council of Governors shall appoint one of the Non-executive Directors as a Deputy Chairman.

3.9 Any Non-executive Director so elected may at any time resign from the office of Deputy Chairman by giving notice in writing to the Chairman. The Council of Governors may thereupon appoint another Non-executive Director as Deputy Chairman in accordance with the Constitution.

3.10 Powers of Deputy Chairman

Where the Chairman of the Trust has died or has otherwise ceased to hold office or where he/she has been unable to perform his/her duties as Chairman owing to illness, absence or any other cause, references to the Chairman in the Standing Orders shall, so long as there is no Chairman able to perform his/her duties, be taken to include the Deputy Chairman.

3.11 **Senior Independent Director** – The Chairman shall, following consultation with the Council of Governors appoint one of the Non-executive Directors as a “Senior Independent Director”.

3.12 In accordance with the Constitution the Non-executive Directors shall appoint the Chief Executive (which appointment shall be approved by the Council of Governors) and a committee consisting of the Chairman, Chief Executive and the other non-executive directors shall appoint or remove the other Executive Directors.

3.13 The Board shall nominate a Company Secretary, who, under the direction of the Chairman and Chief Executive, shall ensure good information flows within the Board and Council of Governors and their Committees, between Directors and members of the Council of Governors, and between senior management and the Board. The Company Secretary shall also advise the Board and Council of Governors on all governance matters and shall facilitate induction and professional development as required. The appointment and removal of the Company Secretary will be carried out jointly with the Chief Executive and Chairman.

3.14 A Director of the Trust, who has acted honestly and in good faith will not have to meet out his or her own personal resources any personal civil liability which is incurred in the execution or purported execution of his or her functions as a Director save where the Director has acted recklessly. On behalf of the Directors and as part of the Trust’s overall insurance arrangements the Board of Directors shall put in place appropriate insurance provision to cover such indemnity and the discretion of the Trust.

3.15 Non-executive Directors may, at the Trust’s expense, seek external advice or appoint an external adviser on any material matter of concern provided the decision to do so is a collective one by the majority of Non-executive Directors. Approval of any such expenses will be done in conjunction with the allocated budget and financial procedure.

3.16 Disqualification and removal of Directors:

Over and above the legal minimum, a person may not become or continue as a Director if they:

- Are a Governor of the Trust;
- Are the subject of a disqualification order made under the Company Directors Disqualification Act 1986
- Have had their name removed by a direction under S.46 of the 1977 Act from any list prepared under Part II of that Act, and have not subsequently had their name included in such a list;
- Are no longer a member of one of the public constituencies (Non-Executive Directors only)
- Have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body.
- Have had a tenure of office as a Chairman or as a member or director of a health service body terminated on the grounds that their appointment is not in the interests of the health service, for non attendance at meetings or for non-disclosure of a pecuniary interest;
- Have refused without reasonable cause to fulfill any training requirement established by the Board of Directors;
- Have refused to sign and deliver a statement in the prescribed format confirming acceptance of a Code of Conduct for Directors.

4. MEETINGS OF THE BOARD OF DIRECTORS

4.1 Admission of the Public and the Press

Meetings of the Board of Directors shall be open to members of the public or representatives of the press. Members of the public may be excluded from a meeting (whether for the whole or part of such meeting) for special reasons as determined by the Chairman in conjunction with the Board of Directors, which may include, but are not limited to, the following reasons:

- Publicity would be prejudicial to the public interest by reasons of the confidential nature of the business to be transacted; or
- There are special reasons stated in the resolution and arising from the nature of the business of the proceedings.

The Chairman may exclude any member of the public from the meeting of the Board of Directors if they are interfering with, or preventing the reasonable conduct of the meeting.

4.2 Confidentiality

Directors and Officers and 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 Board of Directors meeting, without the express permission of the Board of Directors. This

prohibition shall apply equally to the content of any discussion during the Board of Directors' meeting which may take place on such reports or papers.

- 4.3 **Calling Meetings** - Ordinary meetings of the Board of Directors shall be held at such times and places as the Board of Directors may determine.
- 4.4 The Chairman of the Trust may call a meeting of the Board of Directors at any time. If the Chairman refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of Directors, has been presented to him/her, or if, without so refusing, the Chairman does not call a meeting within seven days after such requisition has been presented to him/her at the Trust's Headquarters, such one third or more Directors may forthwith call a meeting.
- 4.5 **Notice of Meetings** - Before each meeting of the Board of Directors, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chairman or by an officer authorised by the Chairman to sign on his/her behalf shall be delivered to every Director, or sent by post to the usual place of residence of such Director, so as to be available to him/her at least five clear days before the meeting.
- 4.6 Want of service of the notice on any Director shall not affect the validity of a meeting.
- 4.7 In the case of a meeting called by Directors in default of the Chairman, the notice shall be signed by those Directors and no business shall be transacted at the meeting other than that specified in the notice or emergency motions allowed under these Standing Orders. Failure to serve such a notice on more than three Directors will invalidate the meeting. A notice shall be presumed to have been served one day after posting.
- 4.8 Agendas will wherever possible be sent to Directors at least five clear days before the meeting and supporting papers, whenever possible.
- 4.9 The Company Secretary will ensure that a notice of a meeting of the Board of Directors is publicised to the public and papers made available on the Trust's website.
- 4.10 **Setting the Agenda**
- The Board of Directors may determine that certain matters shall appear on every agenda for a meeting and shall be addressed prior to any other business being conducted.
- 4.11 A Director 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. Requests made less than 10 days before a meeting may be included on the agenda at the discretion of the Chairman.

4.12 **Chairman of Meeting** - At any meeting of the Board of Directors, the Chairman of the Board of Directors, if present, shall preside. If the Chairman is absent from the meeting the Deputy-Chairman, if there is one and he/she is present, shall preside. If the Chairman and Deputy-Chairman are absent such Director (who is not also an officer of the Trust) as the Directors present shall choose shall preside.

4.13 If the Chairman is absent temporarily on the grounds of a declared conflict of interest the Deputy-Chairman, if present, shall preside. If the Chairman and Deputy-Chairman are absent, or are disqualified from participating, such non-executive director as the Directors present shall choose shall preside. If any matter for consideration at a meeting of the Board of Directors relates to the interests of the Chairman, the Chairman shall not preside over the meeting during which the matter is under discussion.

If any matter for consideration at a meeting of the Board of Directors relates to the interests of the Non-executive Director, the Non-Executive Directors shall not preside over the meeting during which the matter is under discussion.

4.14 The Directors (excluding the Chairman and the other non-executive Directors) shall elect one of their numbers to preside during that period and that person shall exercise all the rights and obligations of the Chairman including the right to exercise a second or casting vote where the number of votes for and against a motion is equal.

4.15 **Annual Members Meeting**

The Trust will publicise and hold an Annual Members Meeting that is open to members of the public and representatives of the press.

4.16 **Notices of Motion** - A Director desiring to move or amend a motion shall send a written notice thereof at least 10 clear days before the meeting to the Chairman, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible under the appropriate regulations. This paragraph shall not prevent any motion being moved during the meeting, without notice on any business mentioned on the agenda, subject to Standing Order 4.6.

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

4.18 **Motion to Rescind a Resolution** - Notice of motion to amend or rescind any resolution (or the general substance of any resolution) which has been passed within the preceding 6 calendar months shall bear the signature of the Director who gives it and also the signature of 4 other Directors. When any such motion has been disposed of by the Board of Directors, it shall not be competent for any Director other than the

Chairman to propose a motion to the same effect within 6 months; however the Chairman may do so if he/she considers it appropriate.

- 4.19 **Motions** - The mover of a motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.
- 4.20 When a motion is under discussion or immediately prior to discussion it shall be open to a Director to move:
- 4.21 An amendment to the motion.
 - 4.22 The adjournment of the discussion or the meeting.
 - 4.23 That the meeting proceed to the next business. (*)
 - 4.24 The appointment of an ad hoc committee to deal with a specific item of business.
 - 4.25 That the motion be now put. (*)
 - 4.26 A motion resolving to exclude the public (including the press).

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

- 4.21 **Chairman's Ruling** - Statements of Directors made at meetings of the Board of Directors shall be relevant to the matter under discussion at the material time and the decision of the Chairman of the meeting on questions of order, relevancy, regularity and any other matters shall be final. In this interpretation he/she shall be advised by the Company Secretary on standing orders and the case of Standing Financial instructions by the Director of Finance.
- 4.22 **Voting** - Every question put to a vote at a meeting shall be determined by a majority of the votes of the Directors present and voting on the question and, in the case of the number of votes for and against a motion being equal, the Chairman of the meeting shall have a second or casting vote.
- 4.23 All questions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Directors present so request.
- 4.24 If at least one-third of the Directors present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Director present voted or abstained.
- 4.25 If a Director so requests, his/her vote shall be recorded by name upon any vote (other than by paper ballot).
- 4.26 In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.

- 4.27 An officer who has been appointed formally by the Board of Directors to act up for an executive director during a period of incapacity or temporarily to fill an executive director vacancy, shall be entitled to exercise the voting rights of the executive director. An officer attending the Board of Directors to represent an executive director during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the executive director. An officer's status when attending a meeting shall be recorded in the minutes.
- 4.28 **Minutes** - The Minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting where they will be signed by the person presiding at it.
- 4.29 No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.
- 4.30 Minutes shall be circulated in accordance with Directors' wishes. Where providing a record of a public meeting the minutes shall be made available to the public.
- 4.31 **Joint Directors** - Where the office of a Director is shared jointly by more than one person:
- a) either or both or any of those persons may attend or take part in meetings of the Board of Directors;
 - b) if both/any 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/any or both/any of those persons should count as the presence of one person for the purposes of Standing Order 4.40 (Quorum).
- 4.32 **Suspension of Standing Orders** - Except where this would contravene any provision of the constitution or any direction made by the Independent Regulator of NHS Foundation Trusts, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Directors are present, including one executive director and one non-executive director, and that a majority of those present vote in favour of suspension.
- 4.33 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.
- 4.34 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Directors.
- 4.35 No formal business may be transacted while Standing Orders are suspended.

- 4.36 The Audit Committee shall review every decision to suspend Standing Orders.
- 4.37 **Variation and Amendment of Standing Orders** - These Standing Orders shall be amended only if:
- 4.37.1 a notice of motion under Standing Order 4.17 has been given; and
 - 4.37.2 no fewer than half the total of the Trust's non-executive directors vote in favour of amendment; and
 - 4.37.3 at least two-thirds of the Directors are present; and
 - 4.37.4 the variation proposed does not contravene a statutory provision or a direction made by the Regulator of NHS Foundation Trusts and
 - 4.37.5 the amendment is approved by the Independent Regulator of NHS Foundation Trusts.
- 4.38 **Record of Attendance** - The names of the Directors present at the meeting shall be recorded in the minutes.
- 4.39 **Quorum** - No business shall be transacted at a meeting of the Board of Directors unless at least one-third of the whole number of the Directors appointed, (including at least one non-executive director and one executive director) are present.
- 4.40 An officer in attendance for an Executive Director but without formal acting up status may not count towards the quorum.

If a Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest they shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

The above requirement for at least one executive director to form part of the quorum shall not apply where the executive Directors are excluded from a meeting (for example when the Board of Directors considers the recommendations of the Remuneration and Terms of Service Committee). The above requirement for at least one non-executive Director to form part of the quorum shall not apply where the Non-Executive Directors are excluded from a meeting.

- 4.41 **Adjournment of Meetings** - The Board of Directors may, by resolution, adjourn any meeting to some other specified date, place and time and such adjourned meeting shall be deemed a continuation of the original meeting. No business shall be transacted at any adjourned meeting which was not included in the agenda of the meeting of which it is an adjournment.

- 4.42 When any meeting is adjourned to another day, other than the following day, notice of the adjourned meeting shall be sent to each Director specifying the business to be transacted.
- 4.43 **Observers at Board of Directors meetings** - The Board of Directors will decide what arrangements and terms and conditions it feels are appropriate to offer in extending an invitation to observers to attend and address any of the Board of Directors meetings and may change, alter or vary these terms and conditions as it deems fit.

5. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

- 5.1 The Board may make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee or sub-committee, appointed by virtue of SO 5.1 or 5.2 below or by a Director of the Trust in each case subject to such restrictions and conditions as the Board thinks fit.
- 5.2 **Emergency Powers** – The powers which the Board has retained to itself within these Standing Orders may in emergency be exercised jointly by the Chief Executive and the Chairman after having consulted at least two other Non-executive Directors. The exercise of such powers by the Chief Executive and the Chairman shall be reported to the next formal meeting of the Board for ratification.
- 5.3 **Delegation to Committees** – The Board shall agree from time to time to the delegation of executive powers to be exercised by committees or sub-committees of Executive Directors, which it has formally constituted. The constitution and terms of reference of these committees, or sub-committees, and their specific executive powers shall be approved by the Board and in accordance with Schedule 7 of the Act.

The Board shall agree and regularly review the setting up of committees to assist and advise the Board in fully discharging its duties as a healthcare organisation.

- 5.4 **Delegation to Officers** – Those functions of the Trust which have not been retained as reserved to the Board or delegated to an executive committee may be exercised on behalf of the Board by the Chief Executive. The Chief Executive shall determine which functions he/she will perform personally and shall nominate Executive Directors only to undertake the remaining functions for which they will still retain accountability to the Board.
- 5.5 The Chief Executive shall prepare a Scheme of Decisions Reserved to the Board and Schedule of Decision/Duties Delegated by the Board, identifying their proposals which shall be considered and approved by the Board, subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendment to the Scheme of

Delegation which shall be considered and approved by the Board as indicated above.

- 5.6 Nothing in the Schedule of Decision/Duties Delegated by the Board shall impair the discharge of the direct accountability to the Board of the Director of Finance or other Director to provide information and advise the Board in accordance with any statutory requirements.
- 5.7 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 Board and officers have a duty to disclose any non compliance with these Standing Orders to the Chief Executive as soon as possible.

6. COMMITTEES

- 6.1 **Formation of Committees** – The Board may form committees of the Trust, consisting wholly or partly of members of the Board of Directors or wholly of persons who are not members of the Board of Directors.
- 6.2 Where the Board delegates a function or power to a committee this committee shall be formed of Directors solely and may not establish sub committees, in accordance with Schedule 7 of the Act.
- 6.3 Where the Board agrees to the setting up of committees consisting of other persons, this committee may not be delegated a function or any power of the Board of Directors but will advise the Board to assist in the Board effectively discharging its duties. Sub Committees of any such committees may be agreed.
- 6.4 The Standing Orders of the Trust, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees or sub-committee formed by the Trust.
- 6.5 Each such committee or sub-committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board), as the Board shall decide. Such terms of reference shall have effect as if incorporated into the Standing Orders.
- 6.6 The Board shall approve the appointments to each of the committees which it has formally constituted. Where the Board determines that persons, who are neither Non-executive Directors nor Directors, shall be appointed to a committee, the terms of such appointment shall be defined by the Board and the terms of reference of that committee. Those appointed would not constitute formal members of the committee and preside in an attendance capacity only.

- 6.7 Where the Trust is required to appoint persons to a committee and/or to undertake statutory functions and where such appointments are to operate independently of the Trust such appointment shall be made in accordance with the regulations and directions laid down by the Board of Directors.
- 6.9 All committees and sub committees of the Board of Directors will be subject to an annual review to ensure best practice and fitness for purpose in conducting and governing the Trusts business.

6.10 Confidentiality

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

7 DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

- 7.1 **Declaration of Interests** If a director has a pecuniary, personal or family interest, whether the interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Board of Directors, the director shall disclose that interest to the members of the Board of Directors as soon as he becomes aware of it.
- 7.2 Interests which may be declared may include but are not exclusive to:
- 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) Shareholdings in organisations likely or possibly seeking to do business with the NHS.
 - d) A position of Trust in a charity or voluntary organisation in the field of health and social care;
 - e) Any connection with a voluntary or other organisation contracting for NHS services;
 - f) Any other commercial interest in the decision the committee or Board meeting may be considering
- 7.3 If Board members have any doubt about the relevance of an interest, this should be discussed with the Chairman.
- 7.4 At the time Board members' interests are declared, they should be recorded in the Board minutes. Any changes in interests should be declared at the next Board meeting following the change occurring.

- 7.5 Board members' directorships of companies likely or possibly seeking to do business with the NHS should be published in the Board's annual report. The information should be kept up to date for inclusion in succeeding annual reports.
- 7.6 During the course of a 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 (unless the Board decides otherwise) or decision.
- 7.7 The interests of Board members' spouses or cohabiting partners should be declared.
- 7.8 If Board members have any doubt about the relevance of an interest, this should be discussed with the Chairman. Financial Reporting Standard No 8 (issued by the Accounting Standards Board) specifies that influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.

7.9 Register of Interests

In accordance with paragraph 34 of the Constitution, the Chief Executive will ensure that a Register of Interests is established to record formally declarations of interests of Board members. In particular the Register will include details of all directorships and other relevant and material interests which have been declared by both Director and Non-executive Directors, as defined in Standing Order 7.2.

- 7.10 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.
- 7.11 The Register will be available for inspection by members of the public.

8. DISABILITY OF CHAIRMANMAN AND DIRECTORS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST

- 8.1 Subject to the following provisions of this Standing Order, if the Chairman or any member of the Board of Directors has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Board of Directors at which the contract or other matter is the subject of consideration, he/she shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter, without the Chairman of the meeting's agreement, or vote on any question with respect to it.
- 8.2 The Board of Directors shall exclude the Chairman or a Director from a meeting of the Board of Directors while any contract, proposed contract or

other matters in which he/she has a pecuniary interest, is under consideration.

- 8.3 Any remuneration, compensation or allowances payable to a member by virtue of paragraph 11 of Schedules 3 and 4 to the National Health Service Act 2006 shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- 8.4 For the purpose of this Standing Order the Chairman or a Director shall be treated, subject to SO 7.1 and SO 8.5, as indirectly having a pecuniary interest in a contract, proposed contract or other matter, if:
- a) he/she, or a nominee of him/her, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matters under consideration; or
 - b) he/she is a partner of, or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration; and in the case of persons living together, the interest of one person shall, if known to the other, be deemed for the purposes of this Standing Order to be also an interest of the other.
- 8.5 The Chairman or a member shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only because:
- a) of their membership of a company or other body, if he/she has no beneficial interest in any securities of that company or other body;
 - b) of an interest in any company, body or person with which he/she is connected as mentioned in SO 8.4 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of or in voting on, any question with respect to that contract or matter.
- 8.6 Where the Chairman or a Director:
- a) has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and
 - b) the total nominal value of those securities does not exceed one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and
 - c) if the share capital is of more than one class, the total nominal value of shares of any one class in which he/she has a beneficial interest does not exceed one hundredth of the total issued share capital of that class, this Standing Order shall not prohibit him/her from taking part in

the consideration or discussion of the contract or other matter from voting on any question with respect to it without prejudice however to his/her duty to disclose his/her interest.

- 8.7 Standing Order 8 applies to a committee or sub-committee of the Board of Directors as it applies to the Board of Directors and applies to any member of any such committee or subcommittee (whether or not they are also a member of the Board of Directors) as it applies to a member of the Board of Directors).

9. STANDARDS OF BUSINESS CONDUCT

9.1 Policy

Staff must comply with the Trust's detailed Standards of Business Conduct and Capability policy documents.

9.2 Interests of Officers in Contracts

If it comes to the knowledge of a Director of the Trust that a contract is which he/she has any pecuniary interest not being a contract to which he/she is himself/herself a party, has been, or is proposed to be, entered into by the Trust he/she shall, at once, give notice in writing to the Chief Executive of the fact that he/she is interested therein.

- 9.3 An officer must also declare to the Chief Executive any other employment or business or other relationship of him/her, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust. The Trust requires interests, employment or relationships so declared by staff to be entered in a register of interests of staff.

9.4 Canvassing of, and recommendations by, Members in relation to Appointments

Canvassing of members of the Board of Directors or members of any committee of the Board of Directors directly or indirectly for any appointment by the Trust shall disqualify the candidate from 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.

- 9.5 A member of the Board of Directors shall not solicit for any person any appointment by the Board of Directors 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 Board of Directors.

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

9.7 **Relatives of Members of the Board of Directors**

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

9.8. The Chairman, and every Director of the Trust shall disclose to the Chief Executive any relationship with a candidate of whose candidature that the Chairman, members or Director is aware. It shall be the duty of the Chief Executive or nominated Director to report to the Board of Directors any such disclosure made.

9.9 On appointment, the Chairman and members of the Board (and prior to acceptance of an appointment in the case of Directors) should disclose to the Board of Directors whether they are related to any other member or holder of any office under the Trust.

9.10 Where the relationship of a Director or another member of the Board or another member of the Trust is disclosed, the Standing Order headed (SO 8) shall apply (Disability of Directors in proceedings on account of pecuniary interest).

10. RESOLUTION OF DISPUTES WITH THE COUNCIL OF GOVERNORS

10.1 The Council of Governors has three main roles:

- a) Advisory – Communicating to the Board the wishes of members of the Council of Governors and the wider community
- b) Guardianship – Ensuring that the Trust is operating in accordance its Terms of Authorisation. In this regard it acts in a trustee role for the welfare of the organisation.
- c) Strategic – Advising on a longer term direction to help the Board effectively determine its policies.

10.2 The Board of Directors has overall responsibility for running the affairs of the Trust. Its role is to:

- a) Note advice from, and consider the views of the Council of Governors
- b) Set the strategic direction and leadership of the Trust
- c) Ensure the Terms of Authorisation are complied with
- d) Set organisational and operational targets
- e) Assess, manage and minimise risk
- f) Assess achievement against the above objectives
- g) Ensure that action is taken to eliminate or minimise, as appropriate, adverse deviations from objectives
- h) Ensure that the highest standards of Corporate Governance are applied throughout the organisation

- 10.3 The disputes resolution procedure recognises the different roles of the Council of Governors and the Board as described above.
- 10.4 The Chairman, or Deputy Chairman (if the dispute involves the Chairman) of the Board and the Council of Governors, shall first endeavour through discussion with members of the Council of Governors and Directors or, to achieve the earliest possible conclusion, appropriate representatives of them to resolve the matter to the reasonable satisfaction of both parties.
- 10.5 Failing resolution under 10.4 above then the Board and the Council of Governors, shall, at its next formal meeting, approve the precise wording of a Disputes Statement setting out clearly and concisely the issue or issues giving rise to the dispute.
- 10.6 The Chairman, or Deputy Chairman (if the dispute involves the Chairman) of the Board and the Council of Governors, shall ensure that the Disputes Statement, without amendment or abbreviation in any way, shall be an Agenda Item and Agenda Paper at the next formal meeting of the Board or Council of Governors as appropriate. That meeting shall agree the precise wording of a Response to Disputes Statement.
- 10.7 The Chairman, or Deputy Chairman (if the dispute involves the Chairman) of the Board and the Council of Governors, shall immediately or as soon as is practicable, communicate the outcome to the other party and deliver the Response to Disputes Statement. If the matter remains unresolved or only partially resolved then the procedure outlined in 10.4 above shall be repeated.
- 10.8 If, in the opinion of the Chairman, or Deputy Chairman (if the dispute involves the Chairman) and the Board or the Council of Governors, and following the further discussion prescribed in 10.7, there is no further prospect of a full resolution or, if at any stage in the whole process, in the opinion of the Chairman or Deputy Chairman, as the case may be, there is no prospect of a resolution (partial or otherwise) then they shall advise the Council of Governors and the Board accordingly.
- 10.9 On the satisfactory completion of this disputes process the Board shall implement agreed changes.
- 10.10 On the unsatisfactory completion of this disputes process the view of the Board shall prevail.
- 10.11 Nothing in this procedure shall prevent the Council of Governors, if it so desires, from informing the Independent Regulator of NHS Foundation Trusts that, in the Council of Governors' opinion, the Board has not responded constructively to concerns of the Council of Governors that the Trust is not meeting the Terms of its Authorisation.

11. NOTIFICATION TO INDEPENDENT REGULATOR OF FOUNDATION TRUSTS AND COUNCIL OF GOVERNORS

The Board shall notify the Independent Regulator of Foundation Trusts and the Council of Governors of any major changes in the circumstances of the Trust which have made or could lead to a substantial change to its financial wellbeing, healthcare delivery performance, or reputation and standing or which might otherwise affect the Trust's compliance with the terms of Authorisation. The need to notify the independent regulator and Governors will also apply in situations where amendments are proposed to the Constitution or its annexes.

12. BOARD PERFORMANCE

The Chairman, with the assistance of the Company Secretary, shall lead, at least annually, a performance assessment process for the Board. This process should act as the basis for determining individual and collective professional development programmes for Directors.

13. TENDERING AND CONTRACT PROCEDURE

The procedure set out in the Trusts Standing Financial Instructions should be adhered to in conjunction with the implementation of these Standing Orders for all tendering and contract procedures.

14. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

14.1 Custody of Seal

The Common Seal of the Trust shall be kept by the Chief Executive or nominated person in a secure place.

14.2 Sealing of Documents

The Seal of the Trust shall not be fixed to any documents unless the sealing has been authorised by a resolution of the Board or of a committee thereof or where the Board has delegated its powers.

14.3 Before any building, engineering, property or capital document is sealed it must be approved and signed by any two as delegated by the Board – Chairman, Chief Executive, Director of Finance or Chief Operating Officer (or a nominated officer who shall not be from within the originating directorate).

14.4 The form of the attestation of documents shall be “The Common Seal of the South Tees Hospitals NHS Foundation Trust was hereto affixed in the presence of

14.5 Register of Sealing

An entry of every sealing shall be made and numbered consecutively in a book provided for that purpose, and shall be signed by the persons who

shall have approved and authorised the document and attested the seal. A report of all sealing shall be made to the next Board of Directors meeting. (The report shall contain details of the seal number, the description of the document and date of sealing).

15. SIGNATURE OF DOCUMENTS

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

16. DISSEMINATION OF STANDING ORDERS

The Chief Executive is responsible for ensuring all existing Directors and officers, and all new appointees are notified of, and understand their responsibility within the Standing Orders.

ANNEX 8 – FURTHER PROVISIONS

1. Indemnity

- 1.1 Members of the Council of Governors, the Board of Directors and the Company Secretary who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their Board functions, save where they have acted recklessly. Any costs arising in this way will be at the discretion of the Trust.
- 1.2 The Trust may purchase and maintain insurance against such liability for its own benefit and the benefit of the Council of Governors, the Board of Directors and the Company Secretary.

2. Restrictions to Membership

Pursuant to the Constitution, the following conditions will apply and will exclude entry to membership and will cease any existing membership:

- 2.1 Persons under the age of 16 years.
- 2.2 Persons who have been involved in an incidence of violence against NHS staff, volunteers, other patients, visitors and facilities.
- 2.3 If a person has habitually and persistently and without reasonable grounds instituted complaints against the Trust and is classified as a vexatious complainant under the terms of the Trust policy.
- 2.4 If there are reasonable grounds, in the opinion of the Council of Governors, to believe that they have or are likely to act in a way detrimental to the interests of the Trust.
- 2.5 Persons dismissed from employment on the grounds of misconduct by an NHS employer or who have been removed from registration by the General Medical Council or Health Professions Council by reasons of misconduct.
- 2.6 Anyone who does not agree to abide by the Trust's core values, which can be found in the Trust's Integrated Business Plan, Integrated Governance Strategy and website.

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1. Interpretation

1.1. Save as permitted by law, the Chair shall be the final authority on the interpretation of these standing orders (on which he/she shall be advised by the Chief Executive and the Company Secretary)

2. General Information

2.1. The purpose of the Standing Orders for Annual Members' Meetings is to ensure that the highest standards of corporate governance and conduct are applied to all Annual Members' Meetings

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

3. Attendance

3.1. Each member shall be entitled to attend an Annual Members' Meeting

4. Meetings in Public

4.1. Meetings of the Annual Members' Meetings must be open to the public subject to the provisions of paragraph 4.2 below

4.2. The Chair may exclude any member of the public from an Annual Members' Meeting if he is interfering with or preventing the reasonable conduct of the meeting

4.3. Annual Members' Meetings shall be held annually at such times and places as the Chair may determine

5. Notice of Meetings

5.1. Before each Annual Members' Meeting, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chair, or by an officer of the Trust authorised by the Chair to sign on his/her behalf, shall be served upon every member at least 10 clear days before the meeting and posted on the Trust's website and displayed at its headquarters

5.2. The Annual Report and Accounts shall be circulated to Governors and published on the website at the earliest and appropriate opportunity. Copies of the Annual Report and Accounts shall be sent to any member upon written request to the Company Secretary and shall be available for inspection by a member free of charge at the place of the meeting

6. Setting the Agenda

6.1. The Chair shall determine the agenda for Annual Members' Meetings which must include the business required by the Act

7. Chair of Annual Members' Meetings

7.1. The Chair, if present, shall preside. If the Chair is absent from the meeting, the Deputy-Chair shall preside. If neither the Chair nor Deputy-Chair is present the Directors and Governors shall elect one of their number to act as Chair

8. Chair's Ruling

8.1. Statements of members made at Annual Members' Meetings shall be relevant to the matter under discussion at the material time and the decision of the Chair of the meeting on questions of order, relevancy, regularity and any other matters shall be final

9. Voting

9.1. Decisions at meetings shall be determined by a majority of the votes of the members present and voting. In the case of any equality of votes, the person presiding shall have a second or casting vote subject to the Act

9.2. All decisions put to the vote shall, at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands

9.3. In no circumstances may an absent member vote by proxy

10. Suspension of Standing Orders

10.1. Except where this would contravene any statutory provision, any one or more of these standing orders may be suspended at an Annual Members' Meeting, provided that a majority of members present vote in favour of suspension

10.2. A decision to suspend the standing orders shall be recorded in the minutes of the meeting

10.3. A separate record of matters discussed during the suspension of the standing orders shall be made and shall be available to the members

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

10.5. The Trust's Audit Committee shall review every decision to suspend the standing orders

11. Variation and Amendment of Standing Orders

11.1. These standing orders may be amended in accordance with paragraph 48 of

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the constitution

12. Record of Attendance

12.1. The Company Secretary shall keep a record of the names of the members present at an Annual Members' Meeting

13. Minutes

13.1. The minutes of the proceedings of an Annual Members' Meeting shall be drawn up and maintained as a public record. They will be submitted for agreement at the next Annual Members' Meeting where they will be signed by the person presiding at it

13.2. No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the meeting

13.3. The minutes of an Annual Members' Meeting shall be made available to the public on the Trust's website

14. Quorum

14.1. No business shall be transacted at an Annual Members' Meeting unless at least 16 members are present.

Board of Directors	
Agenda item	Agenda item 19, ENC 14
Title of Report	North East and North Cumbria Integrated Care System - Memorandum of Understanding
Date of Meeting	3 September 2019
Presented by	Chairman
Previous Committee/Group Review	Health Strategy Group
Purpose	<p>Approval <input checked="" type="checkbox"/> Decision <input type="checkbox"/></p> <p>Discussion <input type="checkbox"/> Information <input type="checkbox"/></p>
Alignment to Trust's Strategic Objectives	<p><input checked="" type="checkbox"/> 1. We will deliver excellence in patient outcomes and experience</p> <p><input checked="" type="checkbox"/> 2. We will drive operational performance to deliver responsive, cost effective care</p> <p><input checked="" type="checkbox"/> 3. We will deliver long term financial sustainability to invest in our future</p> <p><input checked="" type="checkbox"/> 4. We will deliver excellence in employee experience to be seen as an employer of choice</p> <p><input checked="" type="checkbox"/> 5. We will develop clinical and commercial strategies to ensure our long term sustainability</p>
Alignment to Board Assurance Framework	-
Legal/Regulatory Compliance Requirements (if applicable)	<ul style="list-style-type: none"> • NHS 2006 Act as amended by the Health and Social Care Act 2012 • Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
Recommendation(s)	The Board is asked to discuss and approve the Memorandum of Understanding between the North East and North Cumbria NHS partners within our ICS which sets out the details of our commitment to work together to realise our shared ambitions to improve the health of people who live in our area, and to improve the quality of their health and care services.

North East and North Cumbria Integrated Care System

Memorandum of Understanding for NHS clinical commissioning groups and foundation trusts

Introduction and Context

1. This Memorandum of Understanding (Memorandum) is an understanding between the North East and North Cumbria NHS organisations within our ICS. It sets out the details of our commitment to work together to realise our shared ambitions to improve the health of the 3.1 million people who live in our area, and to improve the quality of their health and care services.
2. In working together as a system we will place the people we serve, and the communities in which they live, at the centre of our decision-making, alongside a commitment to clinical leadership at every level of our ICS, and to an appropriate balance between primary, community and acute care.
3. Our ICS is not a new organisation, but a new way of working to meet the diverse needs of our citizens and communities. It does not seek to introduce a hierarchical model; rather it provides a mutual accountability framework, based on principles of ICP subsidiarity, to ensure that we have collective ownership of the delivery of our shared priorities.
4. Although this MOU has a focus on collaboration between NHS organisations, the next stage of our ICS development will be to engage with our partners, in local authorities and beyond, to develop shared priorities and the optimal governance arrangements to oversee their delivery.
5. The Memorandum is not a legal contract. It is not intended to be legally binding and no legal obligations or legal rights shall arise between the Partners from this Memorandum.

A new approach to collaboration

6. Our approach to collaboration begins in each of our fourteen local authority areas which make up the North East and North Cumbria. These places are the primary units for partnerships between Local authorities, NHS commissioners and providers, independent sector providers and the wider public and voluntary sector, working together with the public and patients to agree how to improve health and wellbeing and improve the quality of local health and care services.
7. In seeking to work together we will recognize the operational and financial pressures of our Local Government and other partners, and work with them to optimise the use of our resources in the interests of the people we serve.
8. Place-based working, overseen by Health and Wellbeing Boards, is key to achieving the ambitious improvements in health outcomes that we all want to see. As an ICS we are clear that subsidiarity is vitally important and operated wherever appropriate. It is in our 'places' where the majority of services will continue to be commissioned, planned and delivered.
9. It is also intended to establish an ICS Partnership Assembly that will provide a strategic view on issues where working at scale makes sense and adds value, with inclusive representation from NHS organisations (both non-executive and executive) and partners from each of our ICPs (see below). The ICS Partnership Assembly will help to shape and endorse our strategic priorities -

and make recommendations to statutory decision makers - so that local plans are complemented by a common vision and a shared plan for the North East and North Cumbria as a whole.

Working at scale as an Integrated Care System

10. Although we recognise that local relationships and place-based activity takes precedent, we must also ensure strong connections through to the overall aims and objectives of the ICS. In addition, we must deliver the constitutional standards and deliver the best possible care for patients and the best possible experience for staff.

11. As one of the largest ICSs our operating model is different to other places, as we work across three broad levels of scale.

- **Neighbourhood and Place** – this is the main focus for partnership working between the NHS and local authorities in our cities, boroughs and counties, where primary care networks (serving populations of 30,000-50,000) operate within local authority/current CCG areas of between 150,000 to 500,000 people. Services commissioned and delivered at this level will be predominantly community based, with flexibility to adapt to local circumstances and need.
- **Integrated care partnerships** – will cover populations of around one million (with the exception of North Cumbria, which has unique geographical and demographic features). These are partnerships of neighbouring NHS providers and commissioners, working with their local authorities and other partners, to deliver safe and sustainable predominantly hospital-based health and care services for the people in their area.
- **Integrated care system** – covering a population of circa 3.1 million people, focussed on key strategic priorities for ‘at scale’ working allowing all NHS and partner organisations to:
 - Collectively prioritise based on a shared understanding of need and areas of underperformance
 - Act with ‘one voice’ to represent the North East and North Cumbria and therefore be in a better position to access resources that support our shared priorities.
 - Set stretching and consistent service standards – especially for vulnerable groups – and ambitious targets to improve patient and staff experience
 - Manage risks and pressures better together as a system
 - Share and spread best practice
 - Reduce duplication and develop shared functions where appropriate

Our principles, values and behaviours as a collective senior leadership community:

12. To operate as an effective integrated health and care system we commit to working beyond organisational boundaries. We will build our collective capacity to better manage the health of our population, striving to keep our people healthier for longer and reducing avoidable demand for health and care services. We will:

- Act collectively, demonstrating what can be achieved with strong system leadership
- Speak with one voice, where appropriate, in relation to matters relating to national health and care policy
- Maintain an unrelenting collective focus with our partners on improving health outcomes, based on the principle of prioritising patient first, then system and organisation

- Recognise the continued strengths of each organisation and treat each other with respect, openness and trust, whilst also working as part of an ICS to identify shared priorities and where possible to collectively manage risk.
- Place innovation and best practice at the heart of our collaboration, ensuring that our learning benefits the whole population,
- Maximise opportunities for system-wide efficiencies
- Consider opportunities to manage our resources within a shared financial framework.

ICS Planning in Progress

13. To tackle the challenges of continuous improvement, and to ensure the sustainability of our services, NHS and other Partners are already developing six priority workstreams:-

- I. **Population Health and Prevention** – making fast and tangible progress on improving population health through more effective screening and public awareness to better prevent, detect and manage the biggest causes of premature death in the North East and North Cumbria: cardiovascular disease, respiratory disease and cancer.
- II. **Optimising Health Services** – setting clinical standards and coordinating initiatives across the ICS to find sustainability solutions for those of our health services under the greatest pressure. This workstream will coordinate the work of our Clinical Networks, including the Cancer Alliance, Urgent Care Network and others, and manage the dependencies between the service improvement and reconfiguration proposals as they are developed by each ICP, and maintaining an oversight on quality across our patch.
- III. **Digital Care** – Use digital technology to drive change, ensure our systems are inter-operable, and improving how we use information technology to meet the needs of care providers, patients and the public, helping clinicians to share information and our patients to manage their healthcare.
- IV. **Workforce Transformation** – building a future workforce for our ICS, with the right skills and flexible support arrangements to enable them to work across multiple settings whilst working collectively to ensure we can recruit and retain staff in priority areas.
- V. **Mental Health** - improving outcomes for people who experience periods of poor mental health, particularly those with severe and enduring mental illness, and doing more to improve the emotional wellbeing and mental health of children and young people, and breaking down the barriers between physical and mental health services.
- VI. **Learning Disabilities** – transforming care for people with learning disabilities and autism and improving the health and care services they receive so that more people can live in the community, with the right support, and close to home.

Our governance

14. We will always respect the principle of subsidiarity, and the ongoing responsibilities and accountabilities of statutory CCGs and foundation trusts for services commissioned and delivered at 'place' level. The ICS cannot and will not replace or override the authority of ICS members' boards, councils and governing bodies. Instead, the ICS's governance has been designed to provide a strategic mechanism for collaborative action and common decision-making for issues which are best tackled on a wider scale.

15. The proposed governance model for the ICS has two main features;
 - The development of a strategy and shared priorities, through a Health Strategy Group and Partnership Assembly.
 - The execution of these priorities through an ICS Management Group and then the ICPs themselves.
16. NB the development of our governance arrangements is an iterative process, and will be kept regularly under review. Their chief purpose is to provide mechanisms to build consensus and ensure delivery of agreed priorities, but they do not over-ride the statutory authority of CCG governing bodies and trust boards.

Development of our ICS strategy

17. **The ICS Health Strategy Group (HSG)** will be a quarterly meeting, with membership encompassing CEOs of each of our statutory NHS organisations, alongside clinical leaders and representation from our emerging primary care networks, the Association of Directors of Adults and Children’s Social Services, the Directors of Public Health Network, Public Health England, and the Academic Health Science Network.
18. In conjunction with the ICS Partnership Assembly (see below), and ensuring the principle of ICP subsidiarity, the role of the HSG will be to
 - Agree an overall ICS strategy based on an understanding of both shared challenges, and the objectives in the Long Term Plan – and the priority workstreams that will deliver these priorities.
 - Develop a single leadership architecture, including system rules, behaviours and leadership development.
 - Share information and showcasing effective practice from across the ICS
19. The development of an **ICS Partnership Assembly** is now in discussion with our partners, but will have a key role in shaping our shared priorities for collaboration across health and care, and the wider determinants of health – including, for example, inclusive economic development, the environment, and climate change– that can drive improvements in population health. This Assembly will have an independent chair and vice-chair, and its membership is likely to comprise nominated representatives from each ICP, which could include Health and Wellbeing Board chairs as well as lay members and non-executive directors from NHS organisations. How this body is constituted will be subject to further discussions with our partners over the coming months.

Execution of priorities

20. The **ICS Management Group** will meet monthly, under the chairmanship of the ICS Executive Lead, with two CEO-level representatives from each of our ICPs (one NHS commissioner and one NHS provider), plus senior clinical leaders, representatives from tertiary acute and mental health providers, and NHS England/NHS Improvement.
21. The role of the Management Group will be to
 - strengthen our system leadership capacity to tackle shared challenges
 - oversee the delivery of the LTP and the ICS’s strategic priorities
 - provide mutual support and accountability for the development of our ICPs

- manage performance challenges and ensure robust oversight of emerging service quality issues
 - jointly develop plans as a system to bridge financial gaps, and agree systems for prioritising, distributing and holding each other to account for transformation funding.
 - Assess the recommendations emerging from our ICS workstreams, referring them on to ICPs for implementation if the proposals are supported
22. The ICS Management Group will have a symbiotic relationship with the **governance arrangements of each ICP**. These arrangements are now under development in each of our ICPs, and will need to agree their own governance model, including the relationship between the ICP and their constituent statutory bodies, as well as the role of clinical leaders and non-executive and lay members.
23. The ICS Management Group will ensure mutual accountability by focusing on the delivery of strategic macro-level system work - with the ICPs taking forward a detailed work programme that fits the needs and requirement of their local populations.
24. It will be the responsibility of the ICP Leads to feedback from the Management Group and agree locally how ICS workstream recommendations are best ratified and implemented in their ICPs. ICP leads will also escalate any local challenges to the ICS Management group for consideration of how best the wider system can provide support.

Mutual Financial Accountability

25. The ICS has a key role in supporting organisations and ICPs to collectively drive financial sustainability and improve productivity. As an ICS, we have agreed a set of principles for working together which include adopting a transparent, open-book approach to financial planning, in year reporting and a collective approach to financial risk management.
26. NHS organisations within our ICS are committed to working in collaboration to drive a system response to the financial challenges we face and to take the necessary actions to achieve financial sustainability within the resources available. NHS organisations within our ICS have already committed to the delivery of the 19/20 ICS operational plan, which demonstrated full sign up to delivery of organisational control totals.
27. The ICS will also play a key role through relevant working groups, such as the ICS Finance Leadership Group and Strategic Capital Working Groups, to provide guiding oversight and advice on ICS capital investment priorities and productivity and efficiency opportunities where this is appropriate to do so. This will include oversight of system level efficiency programmes informed by the Rightcare, Model Hospital and GIRFT programmes.
28. Working within our ICS, each ICP is now developing comprehensive 5 year financial plans in support of the NHS Long Term Plan commitments to 2023/24. ICP plans, underpinned by common financial planning assumptions, but tailored to local priorities and circumstances will form the foundations upon which the overarching ICS system long term plan will be constructed.
29. Once plans are established, each ICP will need to engage in collective performance management through open and transparent discussions, peer challenge and support. Local financial governance and accountability arrangements will be established within each ICP and principles associated with management of risk have been agreed. ICPs will take appropriate supportive

action should individual organisations within the community be unable to deliver on agreed plans.

30. In the event that the ICP collective is unable to support delivery of agreed ICP plans, the ICS will open discussions across the wider North East and North Cumbria NHS system to determine whether flexibility exists to offset deteriorating performance in one ICP against improving performance in another.

Conclusion

31. Through this Memorandum the NHS organisations in the North East and North Cumbria ICS commit to
- working together in partnership to realise our shared ambitions to improve the health of the 3.1 million people who live in our area
 - take a collaborative approach to improving population health, and to ensure the quality and sustainability of their health and care services.

Signed: Chief Executive

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Signed: Chair

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Date:

Proposed ICS Governance model and relationship with the ICPs

ICS Management Group

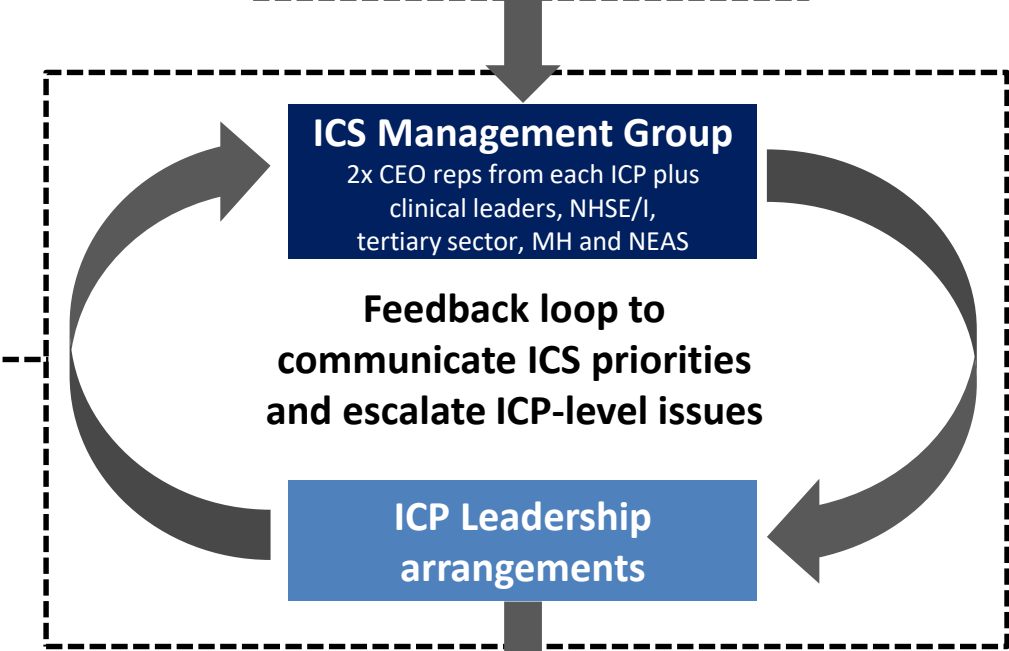
16 August 2019

Proposed ICS Governance model and relationship with the ICPs

Advisory groups
shaping our strategy and
priority workstreams



Operational management
for the implementation of
workstream proposals and
performance management



Statutory decision-makers
for the ratification of ICS
level proposals as required



Example governance model from Central ICP

CCG Committee in Common
Statutory Decision Making

ICS Partnership Assembly

Made up of nominees from each ICP board or equivalent

ICP System Leadership Board

CCG Clinical Chairs, FT Chairs, HWB Chairs + CEOs as below

ICP Executive Group

CEOs/senior leads/clinical leaders from each organisation below

ICS Management Group

Made up of nominees from each ICP

County Durham CCGs

South Tyneside CCG

Sunderland CCG

Durham County Council

South Tyneside Council

Sunderland City Council

Primary Care Networks

Primary Care Networks

Primary Care Networks

CDDFT

South Tyneside & Sunderland FT

TEWV

NTW

NEAS

Quality Assurance Committee Chair's Log

Meeting: Quality Assurance Committee	Date of Meeting: 30/07/2019
Connecting to: Board of Directors	Date of Meeting: 03/09/2019
Key topics discussed in the meeting	
<ul style="list-style-type: none"> • QAC terms of reference (amended to include Head of Patient Safety & Quality & Head of Professions as full members) • Monthly Quality Report • CQC action plan • Mortality / Learning from Deaths Q1 Report • Clinical Audit Progress Report • Monthly SI report • FHN Programme Board Chairs report – No patient safety issues • BAF – NOT AVAILABLE • QIA update • CNST Risk Assessment Report • Chairs logs from reporting groups 	
Actions agreed in the meeting	Responsibility / timescale
<ul style="list-style-type: none"> • QAC revised terms of reference • CNST Evidence (Maternity) • To confirm with Board – CQC Action Plan monitoring • QEIA policy to QAC 	<ul style="list-style-type: none"> • Approved • Approved • August 2019 • August 2019
Escalation of issues for action by connecting group	Responsibility / timescale
<ul style="list-style-type: none"> • Specialist Palliative Care levels continue to fall • Infection outbreak – Cardiac ITU 	<ul style="list-style-type: none"> • G. Hunt / S.Nag / August 2019 • G.Hunt / July 2019
Risks (Include ID if currently on risk register)	Responsibility / timescale
None for escalation	

Finance and Investment Committee

Chair's Log

Meeting: Finance and Investment Committee	Date of Meeting 18 th July 2019
Key topics discussed in the meeting	
<ul style="list-style-type: none"> Month 3 and YTD financial performance Preliminary forecast outturn for 2019/20 Capital Programme Trust cashflow 	
Actions agreed in the meeting	Responsibility / timescale
<ul style="list-style-type: none"> The Committee noted M3 YTD performance was on-plan against a £13.2M YTD deficit (excluding PSF) but that position would almost certainly deteriorate rapidly in the following quarters as planned system wide savings of £2.2M per month were unlikely to materialise. A preliminary full-year forecast shows a range of potential shortfalls against the control total. Further work is urgently required to understand the true position and identify improvement options to deliver the budget plan for trust-controlled activity. The unsustainable capital position was once again noted and a number of spend areas critical to meeting NHS clinical standards were highlighted for which no funding is available. A review of urgent capital requirements prioritised on the basis of patient safety should be prepared to submit an emergency capital request to NHSI. Given the seriousness of the financial position, an additional FIC meeting has been arranged for the end of August to review the forecast financial position and the outcome of further dialogue with NHSI / E 	<p>Director of Finance/Senior Leadership Team August 2019</p> <p>Director of Finance/Senior Leadership Team August 2019</p> <p>FIC Chair</p>
Issues for Board escalation/action	Responsibility / timescale
<ul style="list-style-type: none"> Revenue performance forecasts indicate a significant shortfall against the control total is likely. The trust internal position is already coming under pressure and there appears to be no realistic system-wide programme to address the £22M performance improvement budgeted from this source. The trust capital position is unsustainable. The capital plan shows a shortfall against the minimum contractual obligations under the PFI lifecycle maintenance 	<p>Senior Leadership Team August 2019</p> <p>Senior Leadership Team August 2019</p>

programme, and 5 years of underinvestment in medical and IT equipment has generated significant additional pressure. Urgent emergency capital is required.

- The extraordinary FIC meeting held on 13 June proposed a 4-step approach to build a compelling case for transformational change across the Tees Valley. The first step to build an ambitious future clinical model should be progressed urgently.

Senior Leadership Team
August 2019



Workforce Committee

Chair's Log

Date: 18th July 2019

Connecting to: Board	Date of Meeting: 3 rd September 2019
Key topics discussed in the meeting	
<p>NHSI Interim People Plan and North Regional Talent Board</p> <p>Nursing Update – Terms of Reference and Chair's Log for Nursing, Midwifery and AHP Workforce Assurance Group</p> <p>Medical Workforce Vacancy Report</p> <p>Professions Workforce Update – Professional Leads Meeting Terms of Reference and Chair's Log and draft Workforce Strategy for Healthcare Professions 2019-2021</p> <p>People KPI Report</p> <p>Update on HR Systems</p> <p>Update on Summer Staff Survey</p> <p>Update on Equality and Diversity</p> <p>Draft Health and Wellbeing Strategy</p> <p>Verbal Annual Report from Guardian of Safe Working</p>	
Actions agreed in the meeting	Responsibility / timescale
Medical Education – Bi Annual Report to be presented at next meeting	David Macafee /October 2019
Non-medical prescribing strategy and Workforce implications to be brought to the Committee	Gill Hunt/October 2019
Draft Professions Workforce Strategy – Comments to Rob at next meeting	Committee Members/October 2019
Medical Workforce – Consider new process for safe staff assurance	Gill Hunt and Andy Owens/October 2019
Sickness rates continuing to fall and % in process continues to rise. More work on SDRs and Mandatory Training	Rachael Metcalf/October 2019
Summer Staff Survey results to be presented at next meeting	Rachael Metcalf/October 2019
Draft Equality and Diversity Strategy to be presented at next meeting	Rachael Metcalf/October 2019
Reappointment letter to be sent to Suzie	Rachael Metcalf/July 2019

Peatman for Guardian of Safe Working role Freedom to Speak Up – formal report to next meeting	Gill Hunt/October 2019
Escalation of issues for the Board	Responsibility / timescale
Support from the Committee on the Radiologists risk to be added to the BAF – Has BAF been updated?	Andy Owens/September 2019
Board to consider adding risk to BAF on the issue of Staff Engagement – to be defined	Board/September 2019
Board to consider adding risk to BAF on issue of Pension/taxation and impact on Consultant workforce	Board/September 2019
Board to note that Guardian of Safe Working has been reappointed.	Rachael Metcalf/July 2019
Risks (Include ID if currently on risk register)	Responsibility / timescale
No change but further work to be done on BAF risks as listed above	