

AGENDA ITEM NO:

**UNIVERSITY HOSPITALS BIRMINGHAM NHS FOUNDATION TRUST
 BOARD OF GOVERNORS
 TUESDAY 17 MARCH 2009**

Title:	THE NHS CONSTITUTION - UPDATE
Responsible Director:	Director of Corporate Affairs
Contact:	David Burbridge, Director of Corporate Affairs, Ext 2881

Purpose:	To update the Board of Governors with regard to the NHS Constitution.
Confidentiality Level & Reason:	N/A
Medium Term Plan Ref:	
Key Issues Summary:	<p>The NHS Constitution has now been published in its final format. Once the Health Bill is enacted, the Trust will be under a legal obligation to, in performing its NHS functions, have regard to the NHS Constitution.</p> <p>The Trust will need to actively consider relevant parts of the NHS Constitution when performing its functions, although it may, having made such a consideration, determine that it need not in a particular case, afford any weight to those provisions.</p>
Recommendations:	The Board of Governors is asked to receive the report.

Signed:	Date: March 2009
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UNIVERSITY HOSPITAL BIRMINGHAM NHS FOUNDATION TRUST

BOARD OF GOVERNORS

TUESDAY 17 MARCH 2009

THE NHS CONSTITUTION - UPDATE

DIRECTOR OF CORPORATE AFFAIRS

1 Background

The Board received a briefing at the Annual General Meeting in September regarding the then draft NHS Constitution. Following consultation, the Constitution has now been published, together with a handbook and a Statement of NHS Accountability.

2 The NHS Constitution

2.1 As a result of the consultation, no fundamental alterations to the draft NHS Constitution were made, although the DH has “clarified and strengthened the NHS Constitution and Handbook in several important ways”, in particular:

2.1.1 A clarification of the distinction between ‘rights’ (legal entitlements protected by law) and ‘pledges’ (commitments by the NHS that go beyond what is legally required).

2.1.2 An extension of the rights for patients and the public set out in the NHS Constitution. There is a new legal right (rather than a pledge) to ‘receive the vaccinations that the Joint Committee on Vaccination and Immunisation recommends that you should receive under an NHS-provided national immunisation programme’, to complement the right to receive NICE-approved drugs and treatments where these are clinically appropriate;

2.1.3 An extension of the new right to choice, to include a right to information to help patients exercise that choice. The new right itself is being created through legally-binding directions, published alongside the final NHS Constitution and due to take effect from 1 April 2009.

2.1.4 A substantial revision of the Handbook, both to make it more accessible and to provide more information about routes for feedback, complaint and redress.

2.2 The Constitution sets out seven key principles that are intended to guide the NHS in its activities. These principles are underpinned by six core values. Most can be aligned with the Trust’s own values.

2.3 The remainder of the document sets out the rights and responsibilities of patients and the public and the rights and responsibilities of staff.

2.4 The accompanying Handbook gives greater detail about elements of the

rights, pledges and responsibilities set out in the draft NHS Constitution, describing the basis underpinning each of those statements. Rights usually have a legal basis, whereas pledges are underpinned on a set of actions or commitments which the NHS will strive to achieve. The Handbook also sets out possible forms of redress if rights are infringed.

2.5 The statement of accountability is intended as an introductory guide to the structure of the NHS and the system for making decisions about services.

2.6 Additional information about the constitution can be found at:

<http://www.dh.gov.uk/en/Healthcare/NHSConstitution/index.htm>

3 Impact on the Trust

3.1 Once the Health Bill is enacted, all NHS bodies, and private and third-sector providers supplying NHS services in England will be required by law to, in performing its NHS functions, have regard to the NHS Constitution.

3.2 What the duty to “have regard to” means in practice is that the Trust will need to have actively considered relevant parts of the NHS Constitution when performing its functions, although it may, having made such a consideration, determine that it need not in a particular case, afford any weight to those provisions.

3.3 Other documents, such as responses to complaints and tender decisions, may also need to refer to how the Trust has had regard to relevant provisions of the Constitution.

4 Recommendations

The Board of Governors is asked to receive this report.

David Burbridge
Director of Corporate Affairs

March 2009