

## Corporate Governance Policy

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<b>CLASSIFICATION:</b>	Governance
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## Version Control

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## **1. Policy Statement**

- 1.1. University Hospitals Birmingham NHS Foundation Trust (the “Trust”) is a leading NHS healthcare provider. Its purpose is to provide leading-edge healthcare for the people and communities it serves locally, nationally and internationally by delivering excellence in patient care through clinical expertise, research, innovation, teaching, training and support services.
- 1.2. The Trust’s vision and values statement provides Trust staff with direction as to how we provide care and the principles to be applied in our behaviour. This statement is supported by a set of key policies and procedures to help ensure that high standards are met. The Trust has established and published core competencies as metrics of appropriate behaviour.
- 1.3. The aim of this policy is to outline the Trust’s corporate governance framework and to state the principles of good governance that underpin the Trust’s operations. In determining the corporate governance policy, the Board has sought to apply the principles and provisions of NHS England’s (NHSE’s) Code of Governance for Provider Trusts as well as best practice and other applicable codes of conduct.
- 1.4. The Trust shall maintain a sound system of internal control that supports the delivery of the Trust’s vision, purpose and objectives, whilst safeguarding patient safety and service quality, public funds and its assets.
- 1.5. The Board of Directors shall ensure that the Trust is administered prudently and economically and that resources are applied efficiently and effectively.

## **2. Scope**

This policy applies to all areas of the Trust’s business.

## **3. Responsibilities**

### **3.1. Council of Governors**

- 3.1.1. The statutory general duties of the Council of Governors are to:
  - a) hold the non-executive directors individually and collectively to account for the performance of the board of directors, and
  - b) to represent the interests of the members of the Trust as a whole and the interests of the public.
- 3.1.2. There are three key aspects of the role that underpin the work of the Council of Governors:

- a) Guardianship – receiving reports from the Board of Directors on how the Trust and its services are performing, holding the non-executive directors to account for the performance of the board and acting in a trustee role for the welfare of the Trust;
- b) Advisory – appraising the Board of Directors of views about the strategic direction of the Trust in ways consistent with the needs of their representative members and the wider community;
- c) Strategic – informing the future strategy of the organisation.

- 3.1.3. The powers of the Council of Governors are set out in the Constitution.
- 3.1.4. The Council of Governors and each Governor is required to act at all times in the interests of the Trust as a whole. However, in order to facilitate engagement between Governors and the patients and staff at specific facilities or services, public Governors shall participate in the Patient, Carer and Community Council for a hospital site or service.
- 3.1.5. Terms of reference for the Patient, Carer and Community Councils shall be approved by the Council of Governors.

### **3.2. Board of Directors**

- 3.2.1. The Board of Directors is responsible collectively for the success of the Trust and the achievement of its objectives. Accordingly, all members of the Board have joint responsibility for the operational and financial management of the Trust on a day-to-day basis, regardless of their individual skills or status and all the powers of the Trust are vested in them.
- 3.2.2. The Board undertakes an annual review of the division of responsibilities between the Board and executive management and an annual assessment and evaluation of its own performance, including that of its Committees and individual directors, and explains its evaluation procedures in the Annual Report and Accounts.
- 3.2.3. The Chair and Non-Executive Directors form a majority on the Board and provide it with a broad base of knowledge and experience. Their participation is vital in guiding the process of setting strategic aims and for maintaining corporate accountability.
- 3.2.4. The Board appoints a Senior Independent Non-Executive Director to provide a conduit between the Governors and the Board.
- 3.2.5. The Chair and the Non-Executive Directors are appointed by the Council of Governors and, thereafter, are subject to re-

appointment at least once every three years. The Board determines whether individual Non-Executive Directors are independent and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the directors' judgement. Reasons for such determinations are set out in the Trust's Annual Report and Accounts.

### 3.3. Board of Directors' committees

3.3.1. The directors have established the following standing committees:

- a) Audit Committee;
- b) Executive Appointments and Remuneration Committee;
- c) Clinical Quality and Patient Safety Committee;
- d) People and Culture Committee;
- e) Finance and Performance Committee; and
- f) Investment Committee.

3.3.2. The committees' defined terms of reference are published on the Trust's website. Reports of their activities are given regularly to the Board of Directors.

#### 3.3.3. Audit Committee

- a) The Audit Committee consists solely of independent Non-Executive Directors, excluding the Chair of the Board. It is responsible for helping the Board of Directors fulfil its corporate governance responsibilities relating to the Trust's internal control framework and for reviewing the interim and final accounts of the Trust, accounting policies, the scope and effectiveness of the external audit, the work of the internal audit function, the financial management and control systems, and compliance by the Trust with statutory and other regulatory requirements. The Audit Committee also advises the Council of Governors on the appointment of the external auditors and reviews their audit plan.
- b) The Audit Committee discusses the results of the audit with the external auditors and monitors their objectivity, independence and cost effectiveness. The external and internal auditors have an opportunity for discussion with the Audit Committee in the absence of Executive Directors.

#### 3.3.4. Executive Appointments and Remuneration Committee

The Executive Appointments and Remuneration Committee consists of the Non-Executive Directors, together with the Chair and the Chief Executive, whose membership is limited to matters

excluding his/her own remuneration and appointment. It is responsible for:

- a) ensuring that there is a formal and rigorous procedure for the appointment of new Executive Directors to the Board and other senior officers in the Trust;
- b) reviewing the structure and composition of the Board of Directors, to make recommendations for filling vacancies, and to consider the nature of the role and the capabilities required, taking external advice where appropriate;
- c) ensuring that appointments to the Board are made on merit and against objective criteria. It also satisfies itself that, in terms of succession planning, the necessary processes are in place in respect of Board and senior management appointments; and
- d) establishing policy on executive remuneration and for settling the remuneration packages of individual Executive Directors and other senior executives to ensure that these are sufficient to attract, retain and motivate directors of the quality required to run the Trust successfully.

### 3.3.5. Clinical Quality and Patient Safety Committee

The Clinical Quality and Patient Safety Committee's role is to provide oversight of, and assurance to, the Board of Directors on, all aspects of clinical quality, including clinical effectiveness, patient safety and patient experience. The Committee's duties include:

- a) monitoring the performance of the Trust against the requirements of the Clinical Quality Strategy;
- b) reviewing and monitoring action taken in relation to managing exceptions;
- c) overseeing compliance with external and internal care standards;
- d) overseeing the Trust's responses to all relevant external assessment reports and the progress of their implementation;
- e) monitoring key performance indicators relevant to areas of clinical quality, i.e. effectiveness, safety and patient experience;
- f) receiving quantitative and qualitative analyses reflecting all aspects of patient safety, including complaints, claims, inquests and clinical incidents;
- g) ensuring that lessons are learned from complaints, litigation, adverse incident reports and trends, and service enquiries and reviews; and

- h) initiating and monitoring investigation of areas of serious concern as necessary and ensure resulting action plans are implemented.

### 3.3.6. People and Culture Committee

The People and Culture Committee provides oversight of, and assurance to, the Board of Directors on all aspects of workforce, equality, diversity and inclusion, culture and organisational development. Its duties include:

- a) oversight and assurance on the development and delivery of strategies and plans relating to workforce, EDI, organisational development and effectiveness, culture, and education that supports the Trust plans and operational requirements, and ensures a healthy and fair place to work;
- b) receiving reports relating to the creation and delivery of workforce and recruitment plans aligned to Trust strategies to provide assurance that the Trust has adequate staff with the necessary skills and competencies to meet the present and future needs of patients;
- c) Reviewing the Trust's workforce performance indicators including sickness absence (short term and long term), staff in post, turnover, exit drivers, recruitment, employee relations casework, training, appraisal, corporate induction, staff survey, bank and agency usage and expenditure and monitor any necessary corrective plans and actions;
- d) Providing assurance to the Board that:
  - (i) legal and regulatory requirements relating to the workforce are met;
  - (ii) the Trust is meeting its legal obligations in relation to equality and diversity;
  - (iii) processes are in place to understand and improve staff health and wellbeing;
- e) Ensuring that the Trust operates with openness, fairness and candour;
- f) Providing assurance to the Board that there are mechanisms in place to allow staff to raise concerns and that these are resolved effectively in line with policy and national guidance;
- g) Monitoring the progress of the Trust's plans to improve staff engagement; and
- h) Ensuring the Trust has a leadership and management development programme to reinforce a fair and

empowering culture and that its education and learning is effective.

### 3.3.7. Finance and Performance Committee

The role of the Finance and Performance Committee is to provide:

- a) assurance to the Trust Board that financial and operational performance is being delivered in accordance with strategy, plans, trajectories, appropriate benchmarking and NHS Constitutional targets;
- b) overview and scrutiny of financial and operational performance; and
- c) oversight of financial issues for the Trust in respect of the Integrated Care System.

### 3.3.8. Investment Committee

The Board of Directors has established an Investment Committee to provide it with assurance over investments, borrowings and compliance with the associated Treasury Management Policy.

### 3.3.9. Each committee is also tasked with considering all relevant risks within the Board Assurance Framework and Trust-level risks as they relate to the remit of the committee and to report any areas of significant concern to the Audit Committee or the Board of Directors as appropriate.

## 3.4. Chair and Chief Executive

3.4.1. The Chair's role is to provide clear leadership of the Board of Directors and Council of Governors, setting the agendas for both. The Chair should lead the other Non-Executive Directors in holding the Executive to account for the satisfactory operation and management of the Trust, whilst at the same time ensuring that both the Board of Directors and the Council of Governors play a full role in the development and determination of the Trust's strategy.

3.4.2. The role of the Chief Executive is to act as organisational head, with responsibility for delivering national and local NHS priorities and clinical, financial and managerial standards within the Trust.

3.4.3. NHSE's Code of Governance requires the Trust to set out in writing the division of responsibilities between the Chair and Chief Executive as agreed by the Board of Directors. Details of their respective responsibilities are set out in Annex C.

## 3.5. The Senior Independent Director

3.5.1. The Senior Independent Director (SID) is a Non-Executive Director appointed by the Chair, in consultation with the Non-Executive Directors and the Council of Governors.

3.5.2. The SID's role is:

- a) To be available to Governors and members if they have concerns about the performance of the Board of Directors or compliance with NHSE's Provider Licence, where contact through the normal channels of Chair or Chief Executive has failed to resolve or for which such contact is inappropriate;
- b) To maintain sufficient contact with Governors to understand their issues and concerns;
- c) To help resolve disagreements between the Council of Governors and Board of Directors in accordance with the policy annexed to the Constitution setting out the approach to be taken in these circumstances; and
- d) In accordance with the process agreed between the Chair and the Council of Governors, to be involved in the process for evaluating the performance of the Chair.

### 3.6. The Foundation Secretary

3.6.1. The Foundation Secretary's role is to ensure that the Board of Directors can be assured that the Trust complies with all relevant legislation and NHSE's Provider Licence. He or she will establish procedures for the sound integrated governance of the Trust and will advise the Board of Directors, Council of Governors and various committees on developments in governance and other issues and will ensure that their meetings run efficiently and effectively, any actions or decisions are properly recorded, and directors and governors receive appropriate support.

3.6.2. The Foundation Secretary will provide support to the Chair, Governors, Executive and Non-Executive Directors of the Trust. He or she will develop strong working relationships with external partner organisations on their behalf and play a key coordinating role within the Trust.

3.6.3. The Foundation Secretary will manage the interface between the management and governance arrangements of the Trust and take every opportunity to ensure a high standard of reporting and debate.

### 3.7. Executive Directors

3.7.1. The Chief Executive shall assign specific accountability to members of the Executive Team, as set out in the Scheme of Accountability and Delegation.

3.7.2. Executive Directors shall be responsible to the Chief Executive for the proper governance of the areas they are accountable for and shall ensure that the Trust's policies are complied with.

3.8. Operational Management

- 3.8.1. The operational, day-to-day management of the Trust's clinical services is devolved to the Hospital Executive Teams, consisting of Hospital Executive Directors, Hospital Medical Directors, Hospital Directors of Nursing, Hospital Directors/Associate Directors of Finance and Hospital Associate Directors of People. The Hospital Executive Teams shall be collectively responsible to the Chief Executive for the proper governance of their Hospital and compliance with Trust policies.
- 3.8.2. Members of a Hospital Executive Team may determine between them the allocation of certain responsibilities and should record that in writing. Such determination does not absolve the other members of the Hospital Executive Team of accountability and therefore they must assure themselves that, between them, they have an effective system of governance throughout their Hospital that is consistent with the Trust's Governance Framework.
- 3.8.3. Specialties and clinical services will usually be managed by a triumvirate team, consisting of a Clinical Service Lead, a senior nurse/midwife and a manager, although certain services and specialties may need to adopt a variation to this. Members of a service/specialty management team may, in consultation with the appropriate Hospital Executive Team, agree between them the allocation of certain responsibilities and should record that in writing. Such determination does not absolve the other members of the team of accountability and therefore they must assure themselves that, between them, they have an effective system of governance throughout the service/specialty that is consistent with the Trust's Governance Framework.
- 3.8.4. Whilst governance within a Hospital, service or specialty will be supported by teams from within the Clinical Governance and Patient Safety Team, the responsibility for the implementation and operation of effective governance remains that of the relevant Hospital Executive Team.

**4. Framework**

4.1. Governance Framework and Risk Management

- 4.1.1. The Trust's system of internal control, or Governance Framework, is comprised of systems, structures, policies, processes and controls, including the following:
- a) A Trust-wide risk and control framework;

- b) Clear reservation of powers, delegations and accountability;
  - c) Organisational structure;
  - d) A clear policy framework;
  - e) Reporting on achievement of objectives, risk management and compliance;
  - f) Contractual commitments; and
  - g) Operational and financial reporting.
- 4.1.2. The Board of Directors shall conduct an annual review of the effectiveness of the Trust's system of internal controls and produces an annual statement on internal control that is published in the Annual Report and Accounts.
- 4.1.3. Overall responsibility for the management of risk within the Trust rests with the Board of Directors. The Trust maintains a sound system of internal control to safeguard its assets but recognises that the continuing success of the Trust is dependent upon taking and accepting risk. The Board of Directors is responsible for the Trust's system of internal control and for reviewing its effectiveness in providing a responsible assessment and mitigation of risks. It has established procedures to identify, evaluate and manage significant risks faced by the Trust. These procedures include the review of financial, operational and compliance controls and risk management procedures. They are designed to manage rather than eliminate risk because of the limitations inherent in any such system. Accordingly, the procedures provide reasonable, but not absolute, assurance against material misstatement or loss. The process is reviewed annually by the directors.
- 4.1.4. The Board regularly reviews the major areas of risk that the Trust faces in its operations and the controls that are in place to manage those risks. A high level register is maintained which includes risks specific to the objectives of the Trust, as well as environmental, social, governance, financial and human resources risks.
- 4.1.5. The associated Risk Management Policy clearly defines risk management structures, accountability and responsibilities and the level of acceptable risk for the Trust.
- 4.1.6. Management and ownership of risk is delegated to the appropriate level from Director to local management teams through the Hospital Management Structure.
- 4.1.7. The Executive Team Directors and Hospital Executive Teams review information from the Trust's risk registers, with relevant control and monitoring procedures, for completeness and accuracy.

- 4.1.8. Assurance functions, including internal audit, health and safety, and governance, review the effectiveness of control activities and provide regular reports to executive directors and the Audit Committee. In addition, the Board of Directors monitors the Trust's significant risks on an ongoing basis.
  - 4.1.9. Certain risks, for example natural disasters, cannot be mitigated to an acceptable degree using internal controls. Such major risks may be transferred to third parties, such as insurers, to the extent considered appropriate.
- 4.2. Reservation of powers
- 4.2.1. NHSE's Code of Governance requires that there should be a formal schedule of matters specifically reserved to the Board of Directors<sup>1</sup>. Annex A, "Matters Reserved for the Board of Directors", lists those matters that require the Board's specific consideration, approval or agreement.
  - 4.2.2. In accordance with Schedule 7 of the National Health Service Act 2006, the Constitution of the Trust provides for all the powers of the Trust to be exercisable by the Board of Directors on its behalf and that any of those powers may be delegated to a committee of the Board of Directors (which may be constituted as standing committees or Task and Finish groups), any sub-committee of such a committee or to an individual Executive Director. Further delegation is permitted in accordance with the Carltona principle – see Annex D for further information.
  - 4.2.3. The composition and terms of reference of such committees shall be determined by the Board of Directors from time to time, taking into account, where necessary, the requirements of NHSE. The Board of Directors shall determine the reporting requirements in respect of these committees. Committees may not delegate executive powers to sub-committees unless expressly authorised by the Board.
  - 4.2.4. Any power which the Board of Directors has reserved to itself may, in circumstances where it is important in order to promote or protect the Trust's best interests that the power is exercised as a matter of urgency and without waiting for the next meeting of the Board of Directors, be exercised jointly by the Chair and the Chief Executive. Whenever this occurs, an information report must be presented to the next meeting of the Board of Directors providing full details of how the power has been exercised and

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<sup>1</sup> NHSEI's Code of Governance and Compliance Framework provide more advice on the level of board involvement to be expected but stops short of suggesting those specific matters which must be approved by the board.

explaining why it was considered necessary to proceed in this way.

- 4.2.5. Consideration should be given to the dominance of the Trust's Constitution.

#### 4.3. Delegation to Chief Executive

All powers which are neither reserved to the Board of Directors or the Council of Governors, nor delegated to a committee or sub-committee of the Board of Directors, shall be exercisable by the Chief Executive or as delegated by him/her under the Chief Executive's Scheme of Accountability and Delegations or otherwise. In relation to the exercise of all these functions, the Chief Executive shall be responsible for keeping the Chair informed of any matters that may attract publicity or impact upon the reputation of the Trust.

#### 4.4. Chief Executive's delegations

- 4.4.1. The Chief Executive may delegate the execution of his/her powers. The Chief Executive's Scheme of Accountability and Delegations, approved by the Chief Executive, sets out, on a standing basis, the extent to which some of these powers may only be exercised personally by the Chief Executive and which may be exercised by other Directors or officers of the Trust. The Chief Executive may make additional delegations as the need arises. All powers delegated by the Chief Executive can be re-assumed by him/her should the need arise.
- 4.4.2. Decisions in respect of delegated matters which may have a far reaching effect must be reported to the Chief Executive.

#### 4.5. Accountability

- 4.5.1. The Chief Executive's Scheme of Accountability and Delegations shows only the "top level" of accountability and delegation within the Trust. It is to be used in conjunction with the system of budgetary control and other established procedures within the Trust.
- 4.5.2. Accountabilities of individuals will be clearly defined through job descriptions, Standing Orders, the Chief Executive's Scheme of Accountability and Delegations, policies and otherwise. An individual may delegate responsibility for their accountabilities to their subordinates. However, they remain accountable for the exercise of those delegated responsibilities.

#### 4.6. Operational structure

- 4.6.1. The Trust's management structure is designed to facilitate a clear focus on business performance and the achievement of the Trust's objectives.
- 4.6.2. The Trust's clinical services are organised within the four main hospital sites into Clinical Delivery Groups, which reflect the

nature of the services and the location(s) from where they are provided.

- 4.6.3. The corporate functions of the Trust exist to support the operational teams and are each headed by an Executive Team Director.

4.7. **Policy Framework**

- 4.7.1. The Board of Directors shall ensure that key policies are in place, setting out the principles, rules, and guidelines formulated or adopted by the Trust to reach its long-term goals, and designed to influence and determine all major decisions and actions, and all activities undertaken by the Trust.
- 4.7.2. The Chief Executive shall ensure that operational policies are in place which implement legislative and regulatory requirements by stipulating clear principles to be adhered to, and which provide for the monitoring of compliance against these principles. These policies may be supported by procedural documents, including but not limited to procedures and guidelines, which detail the step by step process stipulated by the overarching policy.
- 4.7.3. The Deputy Chief Executive shall ensure that all policies of the Trust are regularly reviewed and communicated to staff and others, as appropriate.

4.8. **Board Reporting**

- 4.8.1. The Board of Directors remains accountable for all of its functions, even those delegated to the Chair or the Chief Executive, and therefore expects to receive information about the exercise of delegated functions to enable it to maintain a monitoring role.
- 4.8.2. Equally, the Chief Executive remains accountable to the Board of Directors for the exercise of all of the powers delegated to her/him, including those delegated by her/him, and therefore expects to receive information about the exercise of delegated functions.
- 4.8.3. Reports on the exercise of delegated powers shall, generally, be made on an exception basis.

4.9. **Assurance**

- 4.9.1. The Board of Directors shall determine the audit process and ensure that it obtains sufficient assurance, from both Internal and External Audit via the Audit Committee, that the systems and processes that form the Trust's Governance Framework (system of internal control) are robust and effective.

4.9.2. The Board of Directors shall receive reports from the Audit Committee on the discharge of its functions and highlighting any areas of concern.

4.10. Operational and financial reporting

4.10.1. The directors are responsible for maintaining proper accounting records in accordance with International Financial Reporting Standards. The directors, senior management, senior financial managers and other employees preparing financial statements are required not only to conduct themselves with integrity and honesty but also in accordance with the ethical standards of their profession and/or business. They must promote full, fair, accurate, timely and understandable disclosures in compliance with all applicable laws, rules and regulations in all financial statements.

4.10.2. The Trust's financial statements are prepared in accordance with NHSE's Annual Reporting Manual and International Financial Reporting Standards (with the first taking precedent where there is a conflict) and use the most appropriate accounting policies consistently applied and supported by reasonable and prudent judgements. The Board of Directors is responsible for establishing and maintaining internal control over financial reporting to provide reasonable assurance regarding the reliability of financial statements.

4.10.3. The directors have a general responsibility for taking such steps as are reasonably open to them to safeguard assets, and to prevent and detect fraud and other irregularities.

4.10.4. The Board of Directors will receive standing reports regarding clinical quality and operational performance against agreed performance indicators. Reporting will generally be on an exceptions basis.

4.11. Joint Ventures etc.

The Board of Directors recognises the need to ensure that its system of governance continues to be effective when engaged in ventures involving third parties, such as outsourcing and joint ventures. It has established an Investment Committee to provide the Board of Directors with assurance over investments, borrowings and compliance with the associated Treasury Management Policy.

4.12. Communications

4.12.1. The Trust's affairs are conducted in the interests of patients, carers, employees and local communities, as well as others affected by the Trust's activities. Our commitment, both in principle and practice, is for maximum transparency consistent with legislation, good governance and commercial confidentiality.

- 4.12.2. Any request for information not already in the public domain is referred to the Communications department. Only designated officers are allowed to act as “spokesperson” for the Trust.
- 4.12.3. The Trust follows the disclosure guidelines and regulations of NHSE’s Reporting Framework. The Trust also provides, publicly, information about a wide range of subjects within its annual report and other publications.
- 4.12.4. The Trust makes full use of its Council of Governors meetings and other forums to inform Governors and members about current performance and developments. These events also provide opportunities for questions. The Trust maintains a comprehensive website, [www.uhb.nhs.uk](http://www.uhb.nhs.uk), from which reports and publications can be viewed and/or downloaded. Clinical quality information and other information is available on the website.
- 4.12.5. Every effort is made to ensure that annual general meetings are informative and meaningful occasions, and the full Board, including the chairs of the Audit and Remuneration and Nomination Committees, are available to answer questions.
- 4.12.6. The Trust welcomes questions, concerns and criticism from all its stakeholders, which can be made through a variety of communication channels.
- 4.12.7. Complaints, whistle-blowing and grievance procedures exist for patients, carers and employees and these are detailed in our external and internal websites.
- 4.12.8. The Chair ensures that significant issues and concerns of members, Governors and other stakeholders are communicated to the Board of Directors as a whole and that they remain in touch with stakeholder opinion.

#### 4.13. Business integrity

The Trust undertakes its business with integrity, honesty and fairness at all times, building from a foundation of compliance with relevant laws, regulations, codes of conduct and international standards. The Trust has policies on ethics and donations which prohibit conflicts of interest, fraud, bribery and improper practices, while reserving its right to campaign for its legitimate business interests.

### 5. **Implementation and Monitoring**

#### 5.1. Implementation

This policy will be available on the Trust’s Intranet and external internet site. The policy will also be disseminated through the management structure within the Trust.

#### 5.2. Monitoring

The Board of Directors will monitor the effectiveness of this Policy annually and will review the Policy on a regular basis and bi-annually as a minimum.

## **6. Associated Policy and Procedural Documentation**

Chief Executive's Scheme of Accountability and Delegations  
Clinical Quality Policy  
Risk Management Strategy and Policy  
Standing Financial Instructions  
Standing Orders  
Treasury Management Policy

## **Annex A**

### **Matters Reserved To the Board of Directors**

#### **1. Responsibilities**

Responsibility for the operational and financial management of the Trust on a day-to-day basis rests with the Board of Directors, and all the powers of the Trust are vested in them.

#### **2. Matters Reserved for the Board of Directors**

The Standing Orders of the Trust require the Board of Directors to determine those matters on which decisions are reserved to itself. These reserved matters are set out in paragraphs 2.1 to 2.15 below:

##### **2.1. General Enabling Provision**

The Board of Directors may determine any matter it wishes within its statutory powers.

##### **2.2. Constitution, Regulation and Governance**

- 2.2.1. Amendments to the Constitution;
- 2.2.2. Proposed amendments to the Trust's Provider Licence, including any proposal to cease the provision of commissioner requested services;
- 2.2.3. Approval of Standing Orders (SOs) and Standing Financial Instructions (SFIs), for the regulation of its proceedings and business, and amendments thereto or suspension thereof;
- 2.2.4. Adoption of the major organisational structures (i.e. at Divisional level and above) to facilitate the discharge of business by the Trust and to agree material modifications thereto;
- 2.2.5. Changes to the structure of the Board of Directors;
- 2.2.6. Establishment and dissolution of, and terms of reference and reporting arrangements for, Board of Directors' Committees (and other sub-committees or Task and Finish Groups as required);
- 2.2.7. The appointment of members to any committee/Task and Finish Group of the Board of Directors;
- 2.2.8. Ratification of any recommendations of the Trust's committees where the committee does not have appropriate executive powers;
- 2.2.9. Appointment (in consultation with the Council of Governors) of the Senior Independent Director;

- 2.2.10.Appointment or removal of the Foundation Secretary;
  - 2.2.11.Appointment (in consultation with the Council of Governors) of the Deputy Chair;
  - 2.2.12.The appointment and dismissal of Executive and Executive Team Directors; and
  - 2.2.13.Continuation in office of any Executive and Executive Team Director, including the suspension or termination of any such director's service as an employee.
- 2.3. Values and standards
- 2.3.1. Annual review of Directors' Notifications of Interest.
  - 2.3.2. Requiring and receiving declarations 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.
  - 2.3.3. Requiring and receiving declarations of interests from officers which may conflict with those of the Trust.
- 2.4. Strategy, Business Plans and Budgets
- 2.4.1. Determination of the strategic aims and objectives of the Trust (after consultation with the Council of Governors).
  - 2.4.2. Approval of:
    - a) the NHSE Annual Plan;
    - b) the Annual Plan Finance Control Total;
    - c) the Capital Programme; and
    - d) Borrowing requirements of any sort.
  - 2.4.3. Increases to the Capital Programme in excess of £2,000,000, if not matched by corresponding additional external capital funding.
- 2.5. Statutory reporting requirements
- 2.5.1. Approval of the Trust's Annual Report including the annual accounts.
  - 2.5.2. Approval of the Annual Governance Statement.
  - 2.5.3. Approval of declarations to NHSE.
- 2.6. Policy Determination
- The approval of Reserved Policies (as defined in the Trust's Policy for the Development and Management of Controlled Documents).  
Reserved Policies are listed at Annex B of this document.
- 2.7. Major Operational Decisions
- 2.7.1. Disposal or change of use (for Planning Consent reasons) of fixed assets with a market value in excess of £2,000,000 or more,

whether or not listed under Protected Property in the terms of authorisation.

- 2.7.2. Entering into, as tenant, Leases/Licences of land/capital assets (or agreements for same) at a rent/premium of more than £2 million over the term of the Lease/Licence.
- 2.7.3. The granting of Leases/Licences of Trust land/capital assets at a rent/premium of more than £2 million over the term of the Lease/Licence.
- 2.7.4. The granting of extensions to Leases/Licences of Trust land/capital assets at a rent/premium of more than £2 million over the term of the Lease/Licence.
- 2.7.5. The introduction or discontinuance of any significant activity or operation. An activity or operation shall be regarded as significant if it has a gross annual income or expenditure (that is before any set off) in excess of £2,000,000.
- 2.7.6. Approval of individual compensation payments (employment related claims) in excess of £250,000.
- 2.7.7. To agree action on litigation against or on behalf of the Trust that relates to a non-insured claim which is in excess of £1,000,000.
- 2.7.8. To approve settlement in respect of litigation against or on behalf of the Trust that relates to a non-insured claim in excess of £1,000,000.
- 2.7.9. To be notified of all claims where damages awarded/settlement exceeds £2,000,000.

2.8. Performance Management

- 2.8.1. Continuous appraisal of the affairs of the Trust by means of the receipt of reports as it sees fit from Executive Directors, committees, and other employees of the Trust.
- 2.8.2. Continuous appraisal of the Trust's financial and operational performance.

2.9. Business cases and major contracts

- 2.9.1. All business cases relating to new capital projects with a value in excess of £2,000,000.
- 2.9.2. All business cases which involve additional (i.e. not included within the Annual Plan) revenue expenditure in excess of £2,000,000 per annum.
- 2.9.3. Approval of individual contracts of a capital or revenue nature involving expenditure in excess of £2,000,000, other than contracts that are included within the Annual Financial Plan or the Capital Programme, and which do not contain non-standard terms that expose the Trust to additional material risk.

- 2.9.4. Revenue variations under a PFI Contract where the variation is in excess of £2,000,000 per annum or £20,000,000 over the remaining term of the relevant PFI Contract.
  - 2.9.5. Submission of tenders to provide services over £2,000,000 per annum or £20,000,000 over the proposed term of the contract or where the reputational risk to the Trust is high, other than tenders for the provision of services to the extent that they are included within the Annual Financial Plan.
  - 2.9.6. Approval of Contracts for the provision of services by the Trust over £2,000,000 per annum or £20,000,000 over the proposed term of the contract or where the reputational risk to the Trust is high, other than contracts for the provision of services to the extent that such contracts are included within the Annual Financial Plan and do not contain non-standard terms that expose the Trust to additional material risk.
- 2.10. Finance & Activity
- 2.10.1. Approval of the opening or closing of any bank or investment account other than in accordance with the Treasury Management Policy.
  - 2.10.2. Proposals for the write off of losses (where any proceeds are likely to be less than cost of recovery), or writing off of bad debts in excess of £2,000,000.
  - 2.10.3. Proposals for fruitless payments, ex gratia payments or the making of special payments in excess of £1,000,000.
  - 2.10.4. Investment in equities or other joint venture vehicles where the level of investment or equivalent is in excess of £1,000,000.
- 2.11. Risk management oversight
- Approval and monitoring of the Board Assurance Framework and the corporate risk register.
- 2.12. Audit Arrangements
- 2.12.1. To receive reports of the Audit Committee's meetings.
  - 2.12.2. The receipt of the annual report from the external auditor and agreement of actions on the recommendation, where appropriate, of the Audit Committee.
  - 2.12.3. The receipt of the annual report received from the internal auditor and the agreement of actions on the recommendation, where appropriate, of the Audit Committee.
- 2.13. Subsidiary Companies and representative directors
- 2.13.1. The establishment or dissolution of subsidiary companies of the Trust.

- 2.13.2.The appointment and removal of directors of subsidiary companies of the Trust.
- 2.13.3.The appointment and removal of directors to the board of companies in which the Trust has an equity interest or other right to so appoint.

2.14. External Relationships

- 2.14.1.Approval of 'twinning' or reciprocal or other corporate formal relationships with healthcare or other organisations outside the UK.
- 2.14.2.Trust formal membership or association with any body or organisation outside the UK, whether through subscription or other agreement/ arrangement.
- 2.14.3.The appointment of representatives of the Trust with authority to bind the Trust to outside bodies.

2.15. Other

Any matter which may have a material detrimental effect on the reputation of the Trust.

## **Annex B**

<b>Reserved Policies</b>
Approval of Non-Audit and Additional Services by The Trust's External Auditors Policy
Conflicts of Interest (including Sponsorship, Gifts and Hospitality) Policy
Consent to Examination or Treatment Policy
Controlled Documents Policy
Corporate Governance Policy
Directors' Expenses Policy
Discharge and Transfer of Care Policy
Duty of Candour (Being Open) Policy
Emergency Preparedness Policy
Employee Relations Policy
Fair Employment Policy – Diverse, Equal and Inclusive
Health and Safety Policy
Immunisation Policy
Infection Prevention and Control Policy
Investment Policy
IT Acceptable Use Policy
Legal Advice Policy
Management of External Agency Visits, Inspections and Accreditations Policy
Management of Intellectual Property Policy
Medical Devices Policy
Medicines Policy
Mental Capacity and Best Interests Policy
Organ Donation Policy
Patient Relations Policy
Pay Policy
Research Governance Policy
Procurement Policy
Raising Concerns in the Public Interest (Whistle blowing) Policy
Records Management (Corporate and Clinical) Policy
Reporting and Management of Incidents including Serious Incidents Policy

Reviewing Inpatients Deaths Policy
Risk Management Policy
Security Policy
Smoke-Free Premises Policy
Treasury Management Policy
Work-life Balance Policy

## **Annex C**

### **Division of Responsibilities Between the Chair and Chief Executive**

#### **1. Chair**

The Chair is responsible for:

- 1.1. leadership of the Board of Directors and the Council of Governors, ensuring their effectiveness on all aspects of their role and setting their agendas;
- 1.2. ensuring that the Board of Directors and the Council of Governors work together effectively;
- 1.3. ensuring that directors and governors receive accurate, timely and clear information that is appropriate for their respective duties;
- 1.4. ensuring effective communication with patients, members, clients, staff and other stakeholders;
- 1.5. facilitating the effective contribution of all executive and non-executive directors; and
- 1.6. ensuring that constructive relations exist between executive and non-executive directors, and between the Board of Directors and the Council of Governors.

#### **2. Chief Executive**

- 2.1. The National Health Service Act 2006 (the Act) designates the Chief Executive of the Trust as the Accounting Officer.
- 2.2. The Act specifies that the Accounting Officer has the duty to prepare the accounts in accordance with the Act. An Accounting Officer has the personal duty of signing the Trust's accounts. By virtue of this duty, the Accounting Officer has the further duty of being a witness before the Committee of Public Accounts (PAC) to deal with questions arising from those accounts or, more commonly, from reports made to Parliament by the Comptroller and Auditor General (C&AG) under the National Audit Act 1983.
- 2.3. Associated with these duties are the further responsibilities which are the subject of the Independent Regulator's 'NHS Foundation Trust Accounting Officer Memorandum' (Ref: IRG 06/05). It is incumbent on the Accounting Officer to combine these duties with their duties to the Board of Directors.
- 2.4. It is an important principle that, regardless of the source of the funding, Accounting Officers are responsible to Parliament for the resources under their control.
- 2.5. The Chief Executive is accountable to the Board of Directors through the Chair.

- 2.6. The Chief Executive is responsible for maintaining a sound system of internal control that supports the achievement of the Trust's policies, aims and objectives, whilst safeguarding the public funds and departmental assets for which s/he is personally responsible, in accordance with the responsibilities assigned to her/him (as set out in the Independent Regulator's 'NHS Foundation Trust Accounting Officer Memorandum' (Ref: IRG 06/05)).
- 2.7. The Chief Executive is accountable to the Board for the overall organisation, management and staffing of the Trust and for the propriety and regularity of the finances for which the Trust is answerable, for keeping proper accounts, for prudent and economical administration, for avoiding of waste and extravagance, for the efficient and effective use of all the resources in the Trust's charge and for the Trust's performance in clinical quality and other matters, including health and safety arrangements, conduct and discipline. This includes promoting by leadership and example the values embodied in the Nolan Committee's seven principles of public life. Board members should support the Chief Executive in undertaking this responsibility. S/he has a responsibility to see that appropriate advice is tendered to the Board of Directors on all these matters.
- 2.8. Key tasks of the Chief Executive include:
  - a) Working with the Chair and Board of Directors to agree the strategic objectives of the services and ensure these are clearly and consistently communicated, both internally and externally;
  - b) Working with the Executive and clinical teams and external bodies to develop a common understanding of, and support for, the vision and strategic aims of the Trust;
  - c) Working with Executive and clinical colleagues to ensure the highest standards of patient care, service and operational performance and then ensuring a clear and effective management process is in place;
  - d) Ensuring that requirements of clinical governance are maintained effectively within the Trust to meet national requirements and standards;
  - e) Ensuring that the financial management of the Trust is robust and complies with all statutory requirements and standards, incorporating strong corporate governance;
  - f) Ensuring that sufficient information is made available to the Chair and Board to enable them to evaluate and monitor performance effectively;
  - g) Preparing plans for the development of services in line with the agreed Trust strategy, local Health Improvement Programmes and with the NHS Plan and, once agreed, ensuring efficient implementation;

- h) Providing leadership to Executive and Management teams across the Trust and, in particular, leading on the harmonisation and raising of Human Resource standards across the site;
- i) Maintaining and developing a strong external image for the Trust and creating opportunities to enhance the profile of the Trust and its local services; and
- j) Building on and developing existing partnerships with community and voluntary groups, the Integrated Care System, neighbouring Trusts, teaching bodies and other external agencies to ensure seamless care.

## **Annex D**

### **Delegation below Executive Director**

1. To enable the Trust to function efficiently and in accordance with the principles of good governance, it is desirable for the Board of Directors, Chief Executive and Executive Directors to delegate the detailed application of Trust policies and procedures to the appropriate level.
2. In accordance with Schedule 7 of the National Health Service Act 2006, the Constitution of the Trust provides for all the powers of the Trust to be exercisable by the Board of Directors on its behalf and that any of those powers may be delegated to a committee of the Board of Directors, any sub-committee of such a committee or to an individual Executive Director.
3. **Further Delegation of Delegated Powers**
  - 3.1. Because the statutory provision referred to at paragraph 2 above appears not to permit delegation to senior officers and managers of the Trust, such delegation is to be in accordance with the Carltona principle, whereby, the Board of Directors or an individual can authorise an officer of the Trust to exercise a power vested in the Board of Directors or delegated by the Board of Directors or the Chief Executive to an individual on the basis that:
    - 3.1.1. the Board of Directors or the individual is ultimately responsible for the decision of an authorised officer; and
    - 3.1.2. the Trust has so many functions and powers that administrative necessity dictates that it acts through duly authorised officers.
  - 3.2. A person exercising a power for and on behalf of another does so as the 'agent' or 'alter ego' of the person in whom the power is vested. That is, the act of the authorised person is, at law, the act of the person in whom the power is vested. This is fundamentally different to the act of a delegate which, at law, is the delegate's and not the delegator's act. Therefore, the Board of Directors or individuals delegators, as appropriate, will remain responsible for the acts of the person or persons to whom they have authorised to exercise powers for and on his or her behalf.
4. **Caution over the Use of Delegated Powers**
  - 4.1. Functions are delegated to Directors and officers of the Trust on the basis that, in exercising such functions, the Directors and officers will always:
    - 4.1.1. have regard to the best interests of the Trust and its patients;
    - 4.1.2. avoid doing anything which might reasonably give cause for public concern;
    - 4.1.3. have regard to the Nolan principles of public life; and

4.1.4. comply with the Trust's Constitution, Standing Orders, Standing Financial Instructions and with any other relevant conditions or restrictions.