Governors shall withdraw from any item at meetings or discussions where they have or are likely to have an interest.

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<tr>
<th>Item</th>
<th>Purpose</th>
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<tbody>
<tr>
<td>1</td>
<td>Apologies</td>
<td>To note</td>
<td>Jo Mant, Head of Stakeholder Engagement</td>
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<td>2</td>
<td>Minutes of the Council of Governors meeting 17th September 2015</td>
<td>To agree</td>
<td>Andy Trotter Chairman</td>
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<td>3</td>
<td>Matters arising</td>
<td>To note</td>
<td>Andy Trotter Chairman</td>
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| 4    | Trust Constitution  
  • Updated Constitution | To agree | Sally Bryden, Associate Director of Corporate Affairs/Trust Secretary |
| 5    | Board of Directors Meeting Governors update | To note | Richard Diment, Governor |
| 6    | Holding NEDs to Account Working Group update | To note | Richard Diment, Governor |
| 7    | KPMG Governor Survey  
  (action from CoG, 19.3.15)  
  • Governor skills and competencies analysis | To approve | Jo Mant, Head of Stakeholder Engagement |
| 8    | Elections update | To note | Jo Mant, Head of Stakeholder Engagement |
| 9    | Membership Committee update | To note | Rob Imeson, Governor |
| 10   | Serious Incident Inquiry reports  
  • Summary report and action plan  
  • Oct - DDS and Goddington overarching report | To note | Ben Travis, Acting Chief Executive |

AGENDA
## 39th Meeting of the Council of Governors
### Applegarth Suite, Bexleyheath Marriott
#### 10th December 2015, 3.00 pm – 5.00 pm

<table>
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<tr>
<th>Item</th>
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| 11   | Serious Incident Inquiry reports  
   - Summary report and action plan  
     - Nov - JW | To note | Stephen Brooks, Governor & Simon Hart, Director of HR and OD | 7 |
| 12   | Reappointment of Steve James as Non-Executive Director | To note | Andy Trotter, Chairman | 8a&b |
| 13   | Annual Plan progress and integration update | To note | Helen Smith, Deputy Chief Executive | - |
| 14   | Chief Executive Update | To note | Ben Travis, Acting Chief Executive | - |
| 15   | Any other business | | | - |
| 16   | Advance questions – none received | | | - |

**Date and Time of the next meeting**

Thursday, 17 March 2016, 3-5pm, Applegarth Suite, Bexleyheath Marriott
### Agenda item
Minutes of the last meeting of the Council of Governors 17th September 2015

### Item from
Andy Trotter, Chair

### Attachments
Minutes of 17th September 2015

### Summary and Highlights

### Key Benefits:

### Recommendation:
The Council of Governors to agree the minutes as a true record.
Minutes

Chair: Dave Mellish (DM)
Head of Stakeholder Engagement: Jo Mant (JM)

<table>
<thead>
<tr>
<th>Public Governors</th>
<th>Service User/Carer Governors</th>
<th>Appointed Governors</th>
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<tr>
<td>Stephen Brooks (SB)</td>
<td>Renuka Abeyesinghe (RA)</td>
<td>Steve Davies (SD)</td>
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<td>Shouvik Datta (SD)</td>
<td>Fola Balogun (FB)</td>
<td>Maureen Falloon (MF)</td>
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<td>Richard Diment (RD)</td>
<td>Hannah Chamberlain (HC)</td>
<td>Carl Krauhaus (CK)</td>
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<td>Rob Imeson (RI)</td>
<td>Jenny Kay (JK)</td>
<td>Raymond Sheehy (RS)</td>
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<td>Frazer Rendell (FR)</td>
<td>Baeti Mothobi (BM)</td>
<td>Malcolm Wood (MW)</td>
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<td>Eimear Mallen (EM)</td>
<td>Chris Purnell (CP)</td>
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<td>Carole Wilson (CW)</td>
<td>Lesley Smith (LS)</td>
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<td>John Woolgrove (JW)</td>
<td>Mary Stirling (MS)</td>
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<td>Ken Thomas (KT)</td>
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<tr>
<th>Staff Governors</th>
<th>Guests</th>
<th>Guests – incoming new Governors</th>
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<tr>
<td>Barbara Cawdron (BC)</td>
<td>Jo Mant, Head of Stakeholder Engagement (JM)</td>
<td>Alison Spence, Public – Bromley</td>
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<tr>
<td>Steve Francis (SF)</td>
<td>Sally Bryden, Trust Secretary/ Associate Director of Corporate Affairs (SBr)</td>
<td>Phoebe Nwobiri, Public – Rest of England</td>
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<tr>
<td>Joe Nhemachena (JN)</td>
<td>Irene Bajedo (IB)</td>
<td>Jacqueline Ashby-Thompson, Service User/Carer: Carers</td>
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<td>Mary Titchener (MT)</td>
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<td>Sue Read, Staff: Bexley Community Health Services</td>
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In attendance

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<thead>
<tr>
<th>Non Executive Directors</th>
<th>Executive Directors</th>
<th>External presenters</th>
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<tr>
<td>Archie Herron (AH)</td>
<td>Ben Travis – Acting Chief Executive/Director of Finance (BT)</td>
<td>Iain Dimond – Director of Adult Mental Health and Learning Disability Services (ID)</td>
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<td>James Kellock (JK)</td>
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<td>Anne Taylor (AT)</td>
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<td>Andy Trotter, Chair Designate (ATr)</td>
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<table>
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<tr>
<th>Item</th>
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<tbody>
<tr>
<td>1. Apologies</td>
<td>Noted</td>
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<tr>
<td>Katherine Copley, Amanda Finlay, Kaye Jones, Marcos Da Silva, Andrew Waite, Stephen Firn, Helen Smith, Dr Ify Okocha, Jane Wells, Simon Hart, Estelle Frost.</td>
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<tr>
<td>DM welcomed incoming new governors and Andy Trotter, the incoming Chair to the meeting.</td>
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<tr>
<td>2. Minutes of the last meeting of the Council of Governors 25 June 2015</td>
<td>Agreed</td>
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<td>The minutes were agreed as an accurate account.</td>
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<td>3. Matters Arising</td>
<td>Noted</td>
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<td>Item 3: Matters Arising: Serious Incident Inquiry – DA page 1 – BT provided an update. DA’s plea and sentencing took place on 30 July 2015 where he was considered fit to plea. DA was found not guilty of murder, but guilty of manslaughter on the grounds of diminished responsibility and was sentenced under Section 37 to Broadmoor. Publicity has been minimal. There will be a case management meeting with the Coroner in October and an Inquest at a later date.</td>
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<td>Item 3: Matters Arising: Kidney Treatment Centre, page 1 – BT advised that Guy’s and St Thomas’ NHS Foundation Trust had confirmed in writing their wish to jointly proceed with this development.</td>
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<td>RD - this is excellent news, but it is disappointing that the service will be 12 months late in opening. It was important to make it clear that the delay was not Oxleas’ fault.</td>
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4. **Governors’ Standards Committee**

**Update:** AT, Chair of the Governors’ Standards Committee advised that Dalla Jenney had resigned as Public Governor – Greenwich.

IB had not attended the Governors’ Standards Committee meeting to provide an explanation of her non-attendance at the Council of Governors, but had since provided an explanation. The Governors’ Standards Committee recommend to the Council of Governors that IB is reinstated as a governor if she attends the Governor induction in October 2015, and the next Council of Governors in December 2015. This recommendation was **agreed** by the Council of Governors.

**Terms of Reference and procedures:** JM introduced the revised Terms of Reference and new supporting procedures for the Governors’ Standards Committee. The Terms of Reference had been amended to incorporate a process for establishing committee members to ensure the process is transparent and fair. The procedures relate to the termination of office and removal of governors for: non-attendance at Council of Governors; and issues of non-compliance and misconduct. These procedures will support both the Governors’ Standards Committee and the Trust Secretary’s office to ensure processes are consistent and fair.

CP – proposed an amendment to Appendix 3: Procedure for the termination of office and removal of Governors for non-attendance at the Council of Governors, paragraph 3.3. The proposal was to delete the words “as a public observer” and to replace these with “and address the Council of Governors on the issue of his/her reinstatement if she/he so wishes”. **Agreed.**

HC – queried Appendix 4, Procedure for the termination of office and removal of Governors for issues of non-compliance and misconduct, Code of Conduct - can a definition of what would constitute ‘vexatious questioning’ be included. **Agreed.**

SD – will there be an election now that there is a vacancy? SB confirmed that a By-election would take place to replace the governor who had resigned.

RD – historically, some people have become governors without an understanding of what was required of them. SB advised that the new leaflet for potential governors had been sent to members as part of election process.

The Governors’ Standards Committee Terms of Reference and supporting procedures were **agreed** by the Council of Governors, subject to the above minor amendments.

5. **Trust Constitution**

**Updated Constitution** – SB advised that Capsticks had made changes to the Constitution following the last Council of Governors’ meeting. These included removing references to non-existent NHS organisations, patient forums, etc. Following the AMM, further amendments will be made to the Constitution to reflect changes agreed by members by vote at the event. SB asked if governors were happy that the new Constitution reflected issues agreed so far. This was **confirmed.**

CP – would be writing to the December Council of Governors with regard to paragraph 11.31.2 which he felt was antodemocratic. SB advised that any such proposed changes, if agreed by the Council of Governors, should be put to the 2016 AMM.

**Agreed**

6. **Well-Led Review action plan**

BT presented an update. Deloitte had undertaken a review as previously reported to the Council of Governors. The review showed that in comparison with 13 other trusts Deloitte reviewed, Oxleas had the best scores.

Twenty five recommendations had been made, three of which had not been progressed. One of these related to reducing the size of the Council of Governors.

The Governance structure had been reviewed and changed following the Well-Led Review. Deloittes had pointed out that Quality was always the No.1 priority but the Quality Board was not a first tier Board sub-committee. The Workforce Committee was crucial and should also be promoted to a first tier Board sub-committee.

**Noted**
The Terms of Reference for all Committees have been approved. The non-executive director (NED) membership of the following committees/groups was defined as follows:

- **Audit Committee** - 3 NEDs.
- **Risk Committee** (similar to Governance Board) - 2 NEDs
- **Quality Committee** (chaired by the Medical Director) - 2 NEDs.
- **Business Committee** (chaired by the Trust Chair).
- **Workforce and Learning Development Group** (chaired by the Director of Human Resources and Organisational Development) - 2 NEDs.

MS – are governors on committees?
DM – no, but the Holding NEDs to account working group has been considering this matter. DM’s initial feeling is ‘No’.
HC – has the Compliance Board been subsumed by the Quality Committee? Yes.
SD – what does the Patient Experience Group do?

DM advised that there was a whole range of patient experience activity gathering data across the trust such as the National Patient Survey, Friends and Family Test, complaints. These give an indication of how good a person’s experience has been of our services. All service directorates have a patient experience lead reporting into a trust wide group which in turn feeds back into directorates. It might be good to have a couple of Service User/Carer governors on the Patient Experience Group. DM had not seen the recommendations from the Holding NEDs to account working group relating to governor involvement.

CP – is the trust still going into services to seek feedback – using governors, volunteers and others? Yes. This is part of a whole range of measures used to gather feedback from service users and carers.

SB – how does the remit of the Risk Committee fit in with other committees? This Committee collates/takes a view of all risks, identifying top risks. All services have their own risk registers.  
BC – is there any role for staff governors on the Workforce and Learning Development Group? DM will consider this.

EM – there had been patient experience groups in the past which appear to no longer function, but had been well attended in the past. Was the contribution of these original people valued?
DM advised that there had been User Carer Councils at both organisational and directorate levels which were well attended. Following the Darzi review, Quality was more focused, and the Patient Experience Group overtook the existing group.

BT advised that the patient experience structures arranged around the Quality Board are mirrored within each directorate, with Quality Committees at directorate levels with the same sub-groups. The Quality Committee reports to the Board, which sees in-depth reports and has discussions on what patients are saying. There could be a presentation to a Council of Governors.

SBr suggested that this could be a topic for the informal Council of Governors for example, the Friends and Family Test.

DM will now write to Monitor regarding what has been agreed/not agreed from the action plan.

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<th>7.</th>
<th><strong>Holding NEDs to Account Working Group</strong></th>
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<tr>
<td>JW</td>
<td>presented this item. The system is working well and several governors go to Board meetings. JW thanked all governors attending Board meetings and those attending in the future. Some minor tweaks will be made to the system, for example the area of information. RI has highlighted that it would be nice to know what questions have been asked at the previous Board or through direct contact with executives. SBr is arranging a log of questions posed by governors – questions at Board, inbetween Boards, and questions asked by governors/raised by members. The first version was circulated to those governors attending the Board, but in future this will be sent to all governors. JW suggested the working group continues or is scrapped if governors feel it is not effective. Meetings are starting to wind down. A new Chair is needed, and the group may wish to form more of a watching brief rather than hold regular meetings. New governors are very welcome and the next meeting is Tuesday, 23 September, 2.30pm, Pinewood House. CP – a statutory power as a governor is to summon a director to a Council of Governors. Has any director been summoned?</td>
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JW – to date, this has not been considered necessary. If someone has a concern, they are welcome to attend the meeting to raise this.

SB – I like the idea that a governor can ask anything they like, not just what is in the Board of Directors papers.

RI – thanked JW for the work he has done. Challenge is the hardest thing for governors to do in their critical and creative partnership, but the best way to do this is by going to the Board of Directors.

On behalf of the Board, DM thanked JW and governors for attending Board meetings. DM chairs the London Mental Health Chairs Group and other Chairs are very interested in how the Holding NEDs to account working group functions within the trust.

8. Nominations Committee update

Reappointment of James Kellock as non-executive director – DM asked the Council of Governors to note the reappointment of JK for a further three years. This would be the final three year reappointment for JK starting on 1 November 2015. DM explained the reasons of the Nominations Committee for wishing to reappoint JK, and the wider context of change with a number of non-executive directors completing their 3x3 year terms in the next year, and the change of Chair in October 2015. The Council of Governors noted the Nominations Committee decision.

Recommendation of the Nominations Committee for the appointment of Non-Executive Directors

ATr described the process undertaken for the recruitment of three new non-executive directors for the trust, and the reason for the nomination of recommended candidates for the approval of the Council of Governors.

Governors RS, CP and BM are the governor members on the Nominations Committee and they had participated in the recruitment process.

Following interviews by the Nominations Committee, which also included ATr (Chair), AH, AT as Senior Independent Non-Executive Director, and the Director of HR and Organisational Development taking notes, the following candidates were recommended to the Council of Governors for approval:

- Steve Dilworth (who would become Chair of the Audit Committee in due course)
- Joanne Stimpson
- Colleen Harris

The Council of Governors approved the appointment of the above named as non-executive directors.

9. Election results

JM advised the results of the recent elections as follows:

Service User Carer governors (elected unopposed)
Jacqueline Ashby-Thompson - Carers

There were no nominations to the Learning Disability Special Interest vacancy.

Staff Governors (elected unopposed)
Sue Read – Bexley Community Health Services
Jacqui Pointon – Child and Adolescent Mental Health

There were no nominations to the Forensic staff class.

Public Governors

Bexley (3 vacancies - 1,156 eligible voters - Turnout 10%)
Richard Diment re-elected
Elizabeth Anderson
Stephen Brooks re-elected

Bromley (1 vacancy - 995 eligible voters - Turnout 8.7%)
Alison Spence

Rest of England (1 vacancy – 395 eligible voters – Turnout 2.5%)
Phoebe Nwobiri

Jennifer Grant (Public: Bexley) was not successful in her re-election nomination. Also John Woolgrove (Public: Bromley) is coming to the end of his third term and Marcus Da Silva (Staff: Forensic) chose not to re-stand. All three will step down at the Annual Members Meeting on 30 September and these governors were thanked for their hard work as governors.
MS – the turnout was very disappointing.
RD – how do other trusts perform on turnout. JM to report back to next meeting.

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<tr>
<td><strong>Summary reports and action plans</strong></td>
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<td>JW, RD, BT and ID presented this item.</td>
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JW had participated in an Inquiry Panel relating to 3 incidents on Goddington Ward, Green Parks House. JW would report on 2 of these incidents, the third report was in preparation. The governor’s role on the Panel is as an independent person ensuring the process is appropriate. The process had been very vigorous involving DM, Medical Director, BT, Associate Director of Nursing and Head of Patient Safety, looking at medical notes, police reports, drug charts, interviews with staff.

The Inquiry Panel were looking for problems to address in future. The report looks at what’s gone wrong, issues and how these are turned into tangible recommendations. JW felt this was a very open approach, which enabled the raising of any issues, with the objective of finding out what went wrong.

The summary report and recommendations were presented to the Council of Governors. The Service Director develops the action plan to implement the Panel’s recommendations.

It was acknowledged that action plans were not normally presented to the Council of Governors, previously only recommendations were available. Action plans enable governors to see the actions/recommendations being met.

AD – his death, through being hit by a train, could not have been predicted, but weaknesses were found in his diagnosis. The psychiatrist could have been more attentive to his symptoms. The father and step-mother were unable to have their voice heard, as AD did not want their involvement. More emphasis is needed on collaboration with parents and carers. There were also weaknesses in the care planning.

TB – was a frequent inpatient. Again his death was unpredictable, caused by an overdose of drugs and alcohol. However, there were some concerns regarding his treatment, and leave arrangements should have been more closely monitored. There were issues with his care plan, and the consultant was not as involved as they should be. There was also an issue with bed availability.

JW advised that looking through one action plan, an extra “Issue” column has been added which gives a basis for why a recommendation has been made. JW recommended that future action points should consider asking “Issues” to also be noted, as this pinpoints the focus of the concern.

BT assured governors that the trust had been in contact with the families concerned. BT, the Medical Director and Head of Patient Safety had been with AD’s stepmother with her mother, going through the report in detail. A meeting had also taken place with TB’s ex-wife and daughter to share that report. Support was offered and some family members had taken up the offer. This was a very difficult time for them, but their overall emotion was one of ‘relief’ that this resonated with their own experiences.

RD presented on an Inquiry Panel for RS. This was RD’s first experience of a Board level inquiry and he thanked staff and JK for their support and guidance. RS had been involved with the trust for a number of years. At times she had been difficult to engage with or engagement not gone well. She was admitted to OXleas House.

Two issues were identified by the Panel:
- Why action was not taken when the patient was seen lying on the floor. This was a female patient and a male HCA observed her on the floor, but was reluctant to enter her room as RS could be ‘sharp’ with staff.
- Why several staff involved when the intervention took place an hour later, did not properly follow the trust’s basic life support system.

The Panel had struggled, as the cause of death was unknown and remains so, even though RS died in April. It had also been difficult for the Panel to get information from the police who took some things away from the room, but the trust were unclear what had been taken. Police did not regard RS death as suspicious.

A lot of work has been undertaken to make sure all staff are fully up to speed with use of correct procedures.

There was no criticism of the treatment and what the trust did to help RS get better, the only problem was what happened in April the day RS was found on the floor.

ID presented the action plans. ID wishes to reiterate that the action plans are taken very seriously by the trust and at directorate level and are written to accurately reflect recommendations of the Panel. Some action plans will go
back to the Board of Directors every six months for ongoing scrutiny.

AD – there were 8 recommendations, 2 relate to care and treatment planning; 4 to engagement and involvement of carers and families; engagement of ward staff with patient and one specific recommendation – if someone is readmitted within 28 days to ensure a conversation takes place between the discharging and admitting wards.

Physical health symptoms should be taken seriously. In the case of AD complaining of physical health symptoms, due to his mental health condition, it was thought this may have obscured responses. A recommendation is that regardless of a mental health diagnosis, specialist physical health input is required.

There also needs clarity of purpose regarding an admission. There is a right to admit a person due to risk to self, but admission itself became the treatment. Need to consider what are we planning to mitigate future risk?

This is a very sad case, and ID was disappointed there are 4 recommendations regarding relationships between team and family and carers. Involvement of the family and how to manage this when a patient does not agree needs consideration, and how information can be recorded from family.

TB – there were 6 recommendations – 2 medical leadership; 2 management of risk and use of Mental Health Act – informal admission; 1 community team engagement; 1 bed management and impact on patient experience.

Medical leadership – the two aspects were: the leadership of care of TB was led by a very experienced staff grade doctor, however the consultant should have been more involved. The action from this finding is that the trust will make this clear with consultant colleagues. The second aspect relates to minimum standards regarding engagement of the consultant with the ward. Each ward has 0.5WTE use of a consultant which needs to be planned and used better.

Risk and the Mental Health Act – TB was an informal patient who wanted to be on the ward. He had freedom of movement and could come and go as he wished. The recommendation is if a risk profile of an informal patient changes, plans to reduce movement cannot be put into place without acting within the legal framework of the Mental Health Act.

Bed management practice worked against good patient experience. Like all trusts, there is a lot of pressure on beds. The trust needs to be creative by utilising leave beds. In this situation, beds will be utilised. In TB’s case, one time he returned to the ward and no bed was available. The action resulting from this is that the trust is working to identify an extra room on each ward at Oxleas House and Green Parks House which could be quickly converted to a bedroom if needed, giving the patient dedicated bedroom space. The practice of sleepovers anywhere other than acute beds has been eliminated.

The issue regarding the response to RS lying on the floor. If someone is on the floor, staff need to test out why and do something about it and emergency basic life support (EBLS). The Ward Manager will assess staff regularly on the primary assessment of a patient’s physical state and EBLS. The trust is working with the London Ambulance Service and the University of Greenwich regarding training.

LS – did the HCA not go into the room because he was male, also the issue that the patient could be ‘sharp’? When the HCA reported on the ward, was there a female staff member. ID – yes.

ID – the principal issue is finding a patient on the floor. Staff need to do something about it regardless of sex or patient behaviour.

LS – some staff may fear being accused of something, I don’t understand why a female colleague did not attend.

JK – when the HCA reported RS was on the floor to the ward manager, they were told RS had moved.

BC – there is real confusion around leave with informal patients, as to whether an informal patient can leave.

ID – in terms of the action plan, an acute ward is locked – not to keep people in, but to keep people out.

EM – were staff Bank staff? How tempting is it to admit people who are at risk as an informal rather than formal patient due to lack of beds? There have been a few incidents with not enough boundary around vulnerable patients. If the idea is keeping someone safe inside, is leave given too easily?

ID – there is an issue of informal -v- formal. Thinking about this and comparing to other trusts, with regard to London benchmarking, the trust has a slightly higher number admitted informally than formally.
| Could our service have managed the risk in a different way? Could we work with people presenting in a different way? What happens after that? Put on Section? Are there times when we don’t take the opportunity to enforce treatment?  

With regard to Bank staff, the HCA was agency. However part of the induction of agency and Bank staff is the same expectation re practice.  

RD – it’s not just having training, it’s about staff having practice.  

RS – looking at incidents across the trust, at least half related to risk assessment and care planning. These are very important issues. The management of leave can be confusing and is an issue. Bed availability is a very difficult situation. Oxleas is experiencing lack of beds, but community solutions need exploring further. There is also an issue regarding hierarchy – if the HCA raises concerns with more senior staff, the trust needs to check they are being listened to, taken seriously, ask, report, explore and challenge.  

ID – we are creating a culture of continuing improvement.  

DM thanked RD and JW and other governors for their involvement in Inquiry Panels, acknowledging this is really hard work, but gives a real insight and is a real example of how governors are holding the trust to account. It was very unusual to have three incidents at a given time. |  |
| --- | --- |
| 11. **Membership Committee update**  
RI presented this item. The Membership Committee has met twice since the last Council of Governors. Since the end of June 97 Public and 42 Service User/Carer members have been recruited. RI thanked all governors who have supported member recruitment activities and welcomed the involvement of other governors in the Membership Committee. JM has polled members regarding topics for future member health events and the most popular topics were long term conditions, healthy lifestyles and mental health issues. The events will be hosted by governors and open to all members.  

The AMM is the next opportunity for governors to engage with members, and RI asked governors to volunteer for the ‘Meet the governors’ stand – governors should contact JM and Anne Marie Hudson to offer their support. A governors review of the year will be available at the AMM and Oxleas Exchange should be available before the AMM.  

RI asked governors to approve the new Governors’ Quarterly Activity Return. The trust and the Council of Governors do not always know and appreciate what governors are doing, or understand what they could be doing and where to log issues. This return will help governors and the trust capture activity and issues arising. A hard copy solution would be developed for those governors who do not use the internet. The Governors Quarterly Activity Return was approved by the Council of Governors. | Noted |
| 12. **Annual Plan progress and integration update**  
BT presented this item.  

A key strand of the Annual Plan is IT and new ways of working. The trust is now in Year 3 of its 3 year plan.  

In Year 1, the trust invested in its IT infrastructure, replacing the whole network. WiFi was installed, changes to the IT helpdesk made, and the clinical system RiO was re-procured.  

In Year 2 new ways of working were trialled such as Docman and iPads. These worked well. Digipens and the Buddy App are more niche.  

In Year 3, where things are working well, these will be rolled out across the trust. The biggest change will be the new RiO (same name, very different system). The trust will be able to make changes to the system directly with the supplier. The trust had three different versions which have now moved to the new system and in October the plan is to merge all three together to help teams work in a more joined up way.  

The Docman system takes trust documents straight to a GP record electronically. This has been rolled out to all GPs in Greenwich and 50% in Bexley and Bromley. With regard to mobile working, community teams have iPads/tablets to access clinical records. With i-fox, clinicians can go live on line and access records regarding patients, clinical dashboards, activity data, etc. This is working well.  

With regard to finances, the trust is just the wrong side of breakeven and the trust is looking to reduce agency usage to deliver the £1m year end surplus. | Noted |
SD – who is the RiO supplier and where are they based?
BT – the supplier owning the software is Servalec and they are based in the UK.
BC – with iPads you can’t put on a cover, there is a real risk of breakage.
ID – this is because the iPads are smart card enabled, you cannot put on a protective casing. This has been flagged with Alison Furzer and a solution is being sought.
SB – there is a lot of cutting and pasting of information and there is a risk of missing things. Staff are inundated with emails and there is a risk of missing something.

DM advised that a great example of working in partnership which is an objective of the Annual Plan, is the trust’s joint working with Charlton Athletic Community Trust. RI and DM had attended an event at the O2 on Tuesday and the early intervention project is a fantastic example of partnership working.

13. Board of Directors Meeting Governors update
RI presented this item. It is really important for governors to ask questions and these do not have to be related to the Board papers. This should be a standardised item on the agenda so that questions and answers are clearly set out. RI asked that this item be moved up the agenda as time is always limited for later agenda items. This was agreed.

14. Chief Executive update
BT presented this item. The AMM is on 30 September 2015 and the trust would like as many governors as possible to attend. The theme is Working in partnership with patients. There is going to be a vote on changes to the Constitution and the Staff Recognition Awards. A Governors’ Annual Review will be available to members.

All NHS organisations have to develop a 5 Year Plan, led by commissioners regionally. South East London commissioners have tasked Oxleas with coming up with a forward plan for the next five years. This is a huge task, and the trust will be working with other NHS providers, working together. The overall direction chimes with service plans, working together and forming partnerships and developing Local Care Networks. This plan will be presented to the Council of Governor when in place.

HeadScape has been shortlisted for a HSJ award.

RA – how many people have used HeadScape?
SBr – we will bring an update on usage to the December Council of Governors.

15. Any other business
Thank you to the Chair
As this was DM’s last Council of Governors, RS wished to formally thank DM for taking the Foundation Trust through to this point in time. RS said it was a privilege to work with DM, who is very well known and very well thought of both within and outside the trust. DM genuinely cares about the trust and knows what is going on and patients are always top of his agenda. He will be a hard act to follow and is a top quality Chair. A card was presented to DM with governors’ good wishes.

DM thanked RS and governors. The AMM will be his last meeting and he would be talking about the governors there. He said he had really enjoyed working with the Council of Governors, who he believes has really made a difference, particularly because of the local accountability it brings.

Date and time of the next meeting
Thursday, 10 December 2015
Applegarth Suite, Marriott Hotel, Bexleyheath
3.00–5.00pm
Agenda item | Trust Constitution
--- | ---
**Item from** | Sally Bryden, Trust Secretary and Associate Director of Corporate Affairs
**Attachments** | Revised Trust Constitution

**Summary and Highlights**

We have been undertaking a process to ensure our Constitution reflects changes to Oxleas as an organisation and to the wider environment in which we operate. Following agreement by the Board of Directors and the Council of Governors, we took two proposals to our members at our Annual Members’ Meeting in September:

- To adopt new model election rules
- To change staff constituencies to reflect our directorate structure.

These proposals were agreed by the membership. We have therefore updated our Constitution to reflect these changes and a copy with the amendments shown is attached.

We have also taken the opportunity to clarify item 11.31.2 to show that this relates to both service user/carer and public governors.

The document was taken to and approved at the Board of Directors’ meeting in November and the Council of Governors is now asked for their approval. If agreed, the revised Constitution will be posted on our website and sent to Monitor.

**Key Benefits:**

**Recommendation:**

The Council of Governors to agree.
CONSTITUTION OF
OXLEAS NHS FOUNDATION TRUST
(A PUBLIC BENEFIT CORPORATION)
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CONSTITUTION OF OXLEAS NHS FOUNDATION TRUST

1 DEFINITIONS

1.1 Unless the contrary intention appears or the context otherwise requires, words or expressions contained in this constitution bear the same meaning as in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012.

1.2 References in this constitution to legislation include all amendments, replacements, or re-enactments made.

1.3 Headings are for ease of reference only and are not to affect interpretation.

1.4 Words importing the masculine gender only shall include the feminine gender; words importing the singular shall include the plural and vice-versa.

1.5 In this constitution:

“the 2006 Act” means the National Health Service Act 2006 (as amended by the 2012 Act);

“the 2012 Act” means the Health and Social Care Act 2012;

“appointed Governors” means those Governors appointed by the appointing organisations;

“appointing organisations” means those organisations named in this constitution who are entitled to appoint Governors;

“authorisation” means an authorisation given by Monitor;

“Board of Directors” means the Board of Directors as constituted in accordance with this constitution;

“Council of Governors” means the Council of Governors as constituted in accordance with this constitution, which has the same meaning as the Council of Governors in the 2006 Act;

“carer” means a person who has attended any of the Foundation Trust’s premises from which services are provided as the carer of a service-user within the last five years and who provides substantial regular care for a service-user, provided that such person is not providing care in pursuance of a contract (including a contract of employment), or as a volunteer for a voluntary organisation;

“Director” means a member of the Board of Directors;
“elected Governors” means those Governors elected by the public constituencies, the classes of service-user/carers’ constituency and the classes of the staff constituency;

“external auditor” means any external auditor other than the auditor appointed under this constitution to review and report upon other aspects of the Foundation Trust’s performance;

“Financial Year” means:

(a) a period beginning with the date on which the Foundation Trust is authorised and ending with the next 31 March; and

(b) each successive period of twelve months beginning with 1 April.

“the Foundation Trust” means Oxleas NHS Foundation Trust;

“General Meeting” means a meeting of the Council of Governors;

“Governor” means a member of the Council of Governors;

“Local Authority Governor” means a Governor appointed by one or more local authorities whose area includes the whole or part of one of the public constituency areas;

“member” means a member of the Foundation Trust;

“Monitor” means the body corporate known as Monitor, as provided by section 61 of the 2012 Act;

“the NHS Trust” means Oxleas NHS Trust which made the application to become an NHS foundation trust;

“partner” means, in relation to another person, a member of the same household living together as a family unit;

“Partnership Governor” means a Governor appointed by a partnership organisation;

“partnership organisation” means Bexley Voluntary Service Council;

“public constituency” means (collectively) the members who live in an area specified in this constitution as an area for any public constituency of the Foundation Trust;

“public constituency areas” which are Bexley, Bromley, Greenwich, and the Rest of England;
“Public Governor” means a Governor elected by the members of one of the public constituencies;

“registered dentist” means a registered dentist within the meaning of the Dentists Act 1984;

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 who holds a license to practice under that Act;

“Secretary” means the Secretary of the Foundation Trust or any other person appointed to perform the duties of the Secretary, including a joint, assistant or deputy secretary;

“service-user” means a person who has attended any of the Foundation Trust’s premises from which services are provided as a service-user within the last five years and is referred to as a “patient” in the 2006 Act;

“service-user/carers’ constituency” means (collectively) the members of the service-user/carers’ constituency which is referred to as the “patients’ constituency” in the 2006 Act;

“Service-user/carers’ Governor” means a Governor elected by the members of one of the classes of the service-user/carers’ constituency;

“staff constituency” means (collectively) the members of the eightseven classes comprising the staff constituency;

“Staff Governor” means a Governor elected by the members of one of the classes of the staff constituency.

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

2 NAME AND STATUS

2.1 The name of the Foundation Trust is to be “Oxleas NHS Foundation Trust”. The Foundation Trust is a public benefit corporation.

3 PRINCIPAL PURPOSE

3.1 The Foundation Trust’s principal purpose is to serve the community by the provision of goods and services for the purposes of the health service in England.

3.2 The Foundation 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 purpose.

3.3 The Foundation Trust may provide goods and services for any purpose related to:

3.3.1 the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness;

3.3.2 the promotion and protection of public health; and

3.3.3 the provision of goods and services, including education and training, research, accommodation and other facilities, for purposes related to the provision of health and social care.

3.4 The Foundation 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 business of the Foundation Trust is to be managed by the Board of Directors, who shall exercise all the powers of the Foundation Trust, subject to any contrary provisions of the 2006 Act as given effect by this constitution.

4.2 The Foundation Trust may do anything which appears to it to be necessary or desirable for the purposes of or in connection with its functions.

4.3 In particular it may:

4.3.1 acquire and dispose of property;

4.3.2 enter into contracts;

4.3.3 accept gifts of property (including property to be held on trust for the purposes of the Foundation Trust or for any purposes relating to the health service); and

4.3.4 employ staff.

4.4 Any power of the Foundation Trust to pay remuneration and allowances to any person includes the power to make arrangements for providing or securing the provision of pensions or gratuities (including those payable by way of compensation for loss of employment or loss or reduction of pay).

4.5 The Foundation Trust may borrow money for the purposes of or in connection with its functions, subject to any limit imposed by its authorisation or specified in the prudential borrowing code published by Monitor from time to time.

4.6 The Foundation Trust may invest money (other than money held by it as trustee) for the purposes of or in connection with its functions. The investment may include investment by:
4.6.1 forming or participating in forming bodies corporate; and/or
4.6.2 otherwise acquiring membership of bodies corporate.

4.7 The Foundation Trust may give financial assistance (whether by way of loan, guarantee or otherwise) to any person for the purposes of or in connection with its functions.

5 COMMITMENTS

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

Representative membership

5.2 The Foundation Trust shall at all times strive to ensure that taken as a whole its actual membership is representative of those eligible for membership. To this end:

5.2.1 the Foundation Trust shall at all times have in place and pursue a membership strategy which shall be approved by the Council of Governors, and shall be reviewed by them from time to time, and at least every three years;

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

5.2.2.1 a report on steps taken to secure that taken as a whole the actual membership of its public constituencies, the classes of the service-user/carers’ constituency and of the classes of the staff constituency is representative of those eligible for such membership;

5.2.2.2 the progress of the membership strategy; and

5.2.2.3 any changes to the membership strategy.

Co-operation with health service and other bodies

5.3 In exercising its functions the Foundation Trust shall co-operate with Health Authorities, Special Health Authorities, NHS trusts and NHS Foundation Trusts.

Respect for rights of people

5.4 In conducting its affairs, the Foundation Trust shall respect the rights of members of the community it serves, its employees and people dealing with the Foundation Trust as set out in the Charter of Fundamental Rights of the European Union.
Openness
5.5 In conducting its affairs, the Foundation Trust shall have regard to the need to provide information to members and conduct its affairs in an open and accessible way.

Prohibiting distribution
5.6 The profits or surpluses of the Foundation Trust are not to be distributed either directly or indirectly in any way at all among members of the Foundation Trust.

6 FRAMEWORK
6.1 The affairs of the Foundation Trust are to be conducted by the Board of Directors, the Council of Governors and the members in accordance with this constitution and the Foundation Trust’s authorisation and any licence issued by Monitor to the Trust. The members, the Council of Governors, and the Board of Directors are to have the roles and responsibilities set out in this constitution.

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

Council of Governors
6.3 The roles and responsibilities of the Council of Governors, which are to be carried out in accordance with this constitution and the Foundation Trust’s authorisation, are:

6.3.1 at a General Meeting:
   6.3.1.1 to appoint or remove the Chair and the other non-executive Directors;
   6.3.1.2 to approve an appointment (by the non-executive Directors) of the chief executive;
   6.3.1.3 to decide the remuneration and allowances, and the other terms and conditions of office, of the non-executive Directors;
   6.3.1.4 to appoint or remove the Foundation Trust’s auditor;
   6.3.1.5 to be presented with the annual accounts, any report of the auditor on them and the annual report;

6.3.2 to provide their views to the Board of Directors when the Board of Directors is preparing the document containing information about the Foundation Trust’s forward planning;
6.3.3 to respond as appropriate when consulted by the Board of Directors in accordance with this constitution;

6.3.4 to undertake such functions as the Board of Directors shall from time to time request;

6.3.5 to prepare and from time to time review the Foundation Trust’s membership strategy and its policy for the composition of the Council of Governors and of the non-executive Directors; and

6.3.6 when appropriate to make recommendations for the revision of this constitution.

7 MEMBERS

7.1 The members of the Foundation Trust are those individuals whose names are entered in the register of members. Every member is either a member of one of the public constituencies, or a member of one of the classes of the service-user/carers’ constituency, or a member of one of the classes of the staff constituency.

7.2 Subject to this constitution, membership is open to any individual who:

7.2.1 is fourteen years of age or over;

7.2.2 is entitled under this constitution to be a member of one of the public constituencies, or one of the classes of the service-user/carers’ constituency or one of the classes of the staff constituency; and

7.2.3 (unless they are a member of one of the classes of the staff constituency) completes a membership application form in whatever form the Secretary specifies.

Public constituencies

7.3 There are four public constituencies corresponding to the public constituency areas as specified in Annex 1. Membership of a public constituency is open to individuals who:

7.3.1 live in the relevant area of the Foundation Trust;

7.3.2 are not a member of another public constituency or of one of the classes of the service-user/carers’ constituency; and

7.3.3 are not eligible to be members of any of the classes of the staff constituency.

7.4 The minimum number of members of each of the public constituencies is to be four.

Service-user/carers’ constituency

7.5 The service-user/carers’ constituency is divided into six classes as follows:
7.5.1 Working Age Adult Mental Health (including the interests of those in forensic and prison services);
7.5.2 Older People Mental Health;
7.5.3 Adult Community Health;
7.5.4 Children’s;
7.5.5 Learning Disability; and
7.5.6 Carers.

7.6 Membership of the service-user/carers’ constituency is open to individuals:
7.6.1 who are a service-user or carer when they apply for membership or have been a service-user or carer within the period of five years ending on the date they apply for membership; and
7.6.2 who are not a member of a public constituency, nor eligible to be a member of the staff constituency.

7.7 The minimum number of members of the service-user/carers’ constituency is to be twelve (two per class).

**Staff constituency**

7.8 The staff constituency is divided into eightseven classes as follows:
7.8.1 older adult mental community health services;
7.8.2 older people mental health services;
7.8.3 working age adult mental health services;
7.8.4 child and adolescent mental health;
7.8.5 children’s services;
7.8.6 learning disability services;
7.8.7 forensic and prison health services; and
7.8.8 corporate and partnership organisations partner organisations;
7.8.9 Bexley Community Health Services; and
7.8.10 Greenwich Community Health Services.

7.9 Membership of one of the classes of the staff constituency is open to individuals:
7.9.1 who are employed under a contract of employment by the Foundation Trust and who either:
7.9.1.1 are employed by the Foundation Trust under a contract of employment which has no fixed term or a fixed term of at least 12 months; or

7.9.1.2 who have been continuously employed by the Foundation Trust or the NHS Trust for at least 12 months; or

7.9.1.3 who are not so employed but who nevertheless exercise functions for the purposes of the Foundation Trust and who have continuously exercised the functions for the purposes of the Foundation Trust or the NHS Trust for at least 12 months. For the avoidance of doubt, this does not include those who assist or provide services to the Foundation Trust on a voluntary basis.

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

7.11 All individuals who are entitled under this constitution to become members of one of the classes of the staff constituency, and who:

7.11.1 have been invited by the Foundation Trust to become a member of the appropriate class; and

7.11.2 have not informed the Foundation Trust that they do not wish to do so,

shall become members of the appropriate class.

7.12 A person who is eligible to be a member of one of the classes of the staff constituency may not become or continue as a member of any of the public constituencies, or the service-user/carers’ constituency and may not become or continue as a member of more than one class of the staff constituency.

7.13 The minimum number of members of each class of the staff constituency is to be four.

8 DISQUALIFICATION FROM MEMBERSHIP

8.1 This provision applies to:

8.1.1 any person involved within the last five years as a perpetrator in a serious incident of assault or violence, or in one or more incidents of harassment, against any of the Foundation Trust’s employees or other persons who exercise functions for the purposes of the Foundation Trust, or against registered volunteers; and

8.1.2 any person who has been excluded from the Foundation Trust’s premises from which services are provided.
In relation to any such person, membership of the Foundation Trust may be refused or withdrawn if the Council of Governors considers that it is not in the best interests of the Foundation Trust for them to become or remain a member.

9 TERMINATION OF MEMBERSHIP

9.1 A member shall cease to be a member if:

9.1.1 they resign by notice to the Secretary;

9.1.2 they die;

9.1.3 they are expelled from membership under this constitution;

9.1.4 they cease to be entitled under this constitution to be a member of any of the public constituencies, of any of the classes of the service-user/carers' constituency, or of any of the classes of the staff constituency; and/or

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

9.2 A member may be expelled by a resolution approved by not less than two-thirds of the Governors present and voting at a General Meeting. The following procedure is to be adopted:

9.2.1 any member may complain to the Secretary that another member has acted in a way detrimental to the interests of the Foundation Trust;

9.2.2 if a complaint is made, the Council of Governors may itself consider the complaint having taken such steps as it considers appropriate to ensure that each member's point of view is heard and may either:

9.2.2.1 dismiss the complaint and take no further action; or

9.2.2.2 for a period not exceeding twelve months suspend the rights of the member complained of to attend members meetings and vote under this constitution; or

9.2.2.3 arrange for a resolution to expel the member complained of to be considered at the next General Meeting of the Council of Governors.

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

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

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

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

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

10 MEMBERS MEETINGS

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

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

10.3 Members meetings are open to all members of the Foundation Trust, Governors, and Directors but not to members of the public (aside from the annual members’ meeting) unless the Council of Governors decides otherwise. The Council of Governors may invite representatives of the media and any experts or advisors whose attendance they consider to be in the best interests of the Foundation Trust to attend a members meeting.

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

10.5 The Council of Governors may decide where a members meeting is to be held and may also for the benefit of members:

10.5.1 arrange for the annual members meeting to be held in different venues each year; and

10.5.2 make provisions for a members meeting to be held at different venues simultaneously or at different times. In making such provision the Council of Governors shall also fix an appropriate quorum for each venue, provided that the aggregate of the quorum requirements shall not be less than the quorum set out below.

10.6 At the annual members meeting:

10.6.1 the Board of Directors shall present to the members:

10.6.1.1 the annual accounts;
10.6.1.2 any report of the auditor; and
10.6.1.3 forward planning information for the next Financial Year.

10.6.2 the Council of Governors shall present to the members:
10.6.2.1 a report on steps taken to secure that (taken as a whole) the actual membership of its public constituencies, of the classes of the service-user/carers' constituency and of the classes of the staff constituency is representative of those eligible for such membership;
10.6.2.2 the progress of the membership strategy; and
10.6.2.3 any proposed changes to the policy for the composition of the Council of Governors and of the non-executive Directors.

10.6.3 The results of the election and appointment of Governors and the appointment of non-executive Directors will be announced.

10.7 Notice of a members meeting is to be given:
10.7.1 by notice to all members;
10.7.2 by notice prominently displayed at the head office; and
10.7.3 by notice on the Foundation Trust's website,
at least 14 clear days before the date of the meeting. The notice must:
10.7.4 be given to the Council of Governors and the Board of Directors, and to the auditor;
10.7.5 state whether the meeting is an annual or special members meeting;
10.7.6 give the time, date and place of the meeting; and
10.7.7 indicate the business to be dealt with at the meeting.

10.8 Before a members meeting can do business there must be a quorum present. Except where this constitution says otherwise a quorum is one member present from each of the Foundation Trust's constituencies.

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

10.10 It is the responsibility of the Council of Governors, the Chair of the meeting and the Secretary to ensure that at any members meeting:
10.10.1 the issues to be decided are clearly explained; and
10.10.2 sufficient information is provided to members to enable rational discussion to take place.

10.11 The Chair of the Foundation Trust, or in their absence the Deputy Chair of the Council of Governors, or in their absence one of the other Public Governors shall act as chair at all members meetings of the Foundation Trust. If neither the Chair nor the Deputy Chair of the Council of Governors is present, the members of the Council of Governors present shall elect one of their number to be Chair and if there is only one Governor present and willing to act they shall be Chair.

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

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

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

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

11 COUNCIL OF GOVERNORS

11.1 The Foundation Trust is to have a Council of Governors. It is to consist of Public Governors, Service-user/carer Governors, Staff Governors, Local Authority Governors and Partnership Governors.

11.2 The aggregate number of Public Governors and Service-user/carer Governors is to be more than half of the total number of members of the Council of Governors.

11.3 The Council of Governors, subject to the 2006 Act, shall seek to ensure that through the composition of the Council of Governors:

11.3.1 the interests of the community served by the Foundation Trust are appropriately represented;

11.3.2 the level of representation of the public constituencies, the classes of the service-user/carers’ constituency, the classes of the staff constituency and the appointing organisations strikes an appropriate balance having regard to their legitimate interest in the Foundation Trust’s affairs;

11.3.3 and to this end, the Council of Governors:
11.3.4 shall at all times maintain a policy for the composition of the Council of Governors which takes account of the membership strategy, and

11.3.5 shall from time to time and not less than every three years review the policy for the composition of the Council of Governors, and

11.3.6 when appropriate shall propose amendments to this constitution.

11.4 The Council of Governors of the Foundation Trust is to comprise:

11.4.1 thirteen Public Governors from the following public constituencies:

11.4.1.1 Bexley – four Public Governors;

11.4.1.2 Bromley – four Public Governors;

11.4.1.3 Greenwich – four Public Governors; and

11.4.1.4 Rest of England – one Public Governor.

11.4.2 thirteen Service-user/carer Governors from the classes of the service-user/carers’ constituency (with the number of governors as indicated):

11.4.2.1 Working Age Adult Mental Health (including the interests of those in forensic and prison services) – four Service-user/carer Governors;

11.4.2.2 Older People Mental Health – two Service-user/carer Governors;

11.4.2.3 Adult Community Health – four Service-user/carer Governors;

11.4.2.4 Children’s – one Service-user/carer Governor;

11.4.2.5 Learning Disability – one Service-user/carer Governor; and

11.4.2.6 Carers – one Service-user/carer Governor;

11.4.3 eighteen Staff Governors, one from each of the classes of the staff constituency;

11.4.4 three Local Authority Governors, one appointed by each of Bexley Council, the London Borough of Bromley, and the London Borough of Greenwich;

11.4.5 six Partnership Governors who may be appointed by the partnership organisation.

11.5 The partnership organisation shall appoint Partnership Governors following consultation with Community Links Bromley and Greenwich Action for Voluntary Service in order to represent the interests of (without limitation)
children, older people and people with, or people engaging with people with, learning disabilities and/or mental health issues.

**Elected Governors**

11.6 Public Governors are to be elected by members of their public constituency, Service-user/carer Governors are to be elected by members of their class of the service-user/carers’ constituency and Staff Governors are to be elected by members of their class of the staff constituency. Each class/constituency may elect any of their number to be a Governor in accordance with the provisions of this constitution.

11.7 If contested, the elections must be by secret ballot.

11.8 Elections shall be carried out in accordance with the model election rules (as published from time to time by NHS Providers) set out in Annex 2. The Council of Governors will decide which of the two voting methods set out in Annex 2 is to be used.

11.9 A member of a public constituency may not vote at an election for a Public Governor and a member of the service-user/carers’ constituency may not vote at an election for a Service-user/carer Governor unless within twenty-one days before they vote they have made a declaration in the form specified by the Secretary that they are qualified to vote as a member of the relevant public constituency or the service-user/carers’ constituency (as the case may be). It is an offence to knowingly or recklessly make such a declaration which is false in a material particular.

**Local Authority Governors**

11.10 The Chair, having consulted Bexley Council, the London Borough of Bromley, and the London Borough of Greenwich is to adopt a process for agreeing the appointment of Local Authority Governors with those local authorities.

**Partnership Governors**

11.11 The Partnership Governors are to be appointed by the partnership organisation, in accordance with paragraph 11.5 and a process agreed with the Chair.

**Appointment of Deputy Chair of the Council of Governors**

11.12 The Council of Governors shall appoint one of the Governors to be Deputy Chair of the Council of Governors.

**Terms of office for Governors**

11.13 Elected Governors:

11.13.1 shall normally hold office for a period of three years commencing immediately after the annual members meeting at which their election is announced;
11.13.2 are eligible for re-election after a three year period of office and after a six year period of office;

11.13.3 may not hold office for more than three successive terms making nine consecutive years, and shall not be eligible for re-election if they have already held office for more than six consecutive years.

11.14 Appointed Governors:

11.14.1 shall normally hold office for a period of three years commencing immediately after the annual members meeting at which their appointment is announced;

11.14.2 are eligible for re-appointment after a three year period of office and after a six year period of office;

11.14.3 may not hold office for longer than three successive terms making nine consecutive years, and shall not be eligible for re-appointment if they have already held office for more than six consecutive years.

11.15 For the purposes of these provisions concerning terms of office for Governors, “year” means a period commencing immediately after the conclusion of the annual members meeting, and ending at the conclusion of the next annual members meeting.

Eligibility to be a Governor

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

11.16.1 they are under sixteen years of age;

11.16.2 they are a Director of the Foundation Trust, or a governor or director of a community health NHS Trust/foundation trust or mental health NHS Trust/foundation trust;

11.16.3 they are the spouse, partner, parent or child of a member of the Board of Directors of the Foundation Trust;

11.16.4 they are a member of a local authority’s Scrutiny Committee covering health matters;

11.16.5 being a member of one of the public constituencies or the service-user/carers’ constituency, they refuse to sign a declaration in the form specified by the Secretary of particulars of their qualification to vote as a member of the Foundation Trust, and that they are not prevented from being a member of the Council of Governors;

11.16.6 they are a vexatious complainant;

11.16.7 on the basis of disclosures obtained through an application to the Disclosure and Barring Service established under section 87 of the Protection of Freedoms Act 2012 (or any other checks required by the Foundation Trust from time to time as being consistent with its
licence conditions or mandatory or nationally recommended good governance arrangements), they are not considered suitable by the Foundation Trust’s executive Director responsible for Human Resources or the Chairman;

11.16.8 they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;

11.16.9 they are a person in relation to whom a moratorium period under a debt relief order applies (under part 7A of the Insolvency Act 1986);

11.16.10 they have made a composition or arrangement with, or granted a trust deed for, their creditors and have not been discharged in respect of it;

11.16.11 they have 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;

11.16.12 they do 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 or updated from time to time);

11.16.13 they have within the preceding two years been dismissed from any paid employment with a health service body, otherwise than by reason of redundancy, sickness or dismissal that was found by an Employment Tribunal or competent court (or on appeal in either case) to be unfair, wrongful or discriminatory; and/or

11.16.14 they are a person whose tenure of office as the Chair 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.

Termination of office and removal of Governors

11.17 A person holding office as a Governor shall immediately cease to do so if:

11.17.1 they resign by notice in writing to the Secretary;

11.17.2 they fail to attend two consecutive meetings, unless the other Governors are satisfied that:

11.17.2.1 the absences were due to reasonable causes; and

11.17.2.2 they will be able to start attending meetings of the Council of Governors again within such a period as the other Governors consider reasonable.
11.17.3 in the case of an elected Governor, they cease to be a member of the constituency or class of the constituency by which they were elected;

11.17.4 in the case of an appointed Governor, the appointing organisation terminates the appointment;

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

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

11.17.7 they are removed from the Council of Governors under the following provisions.

11.18 A Governor may be removed from the Council of Governors by a resolution approved by not less than two-thirds of the remaining Governors present and voting on the grounds that:

11.18.1 they have committed a serious breach of the code of conduct; or

11.18.2 they have acted in a manner detrimental to the interests of the Foundation Trust; and

11.18.3 the Council of Governors consider that it is not in the best interests of the Foundation Trust for them to continue as a Governor.

Vacancies amongst Governors

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

11.20 Where the vacancy arises amongst the appointed Governors, the Secretary shall request that the appointing organisation appoints a replacement to hold office for the remainder of the term of office.

11.21 Where the vacancy arises amongst the elected Governors, the Council of Governors shall be at liberty either:

11.21.1 to call an election within three months to fill the seat for the remainder of that term of office; or

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

Expenses and remuneration of Governors

11.22 The Foundation Trust may reimburse Governors for travelling and other costs and expenses incurred in carrying out their duties at such rates as the Board of Directors decides.
11.23 Governors are not to receive remuneration.

Meetings of the Council of Governors

11.24 The Council of Governors is to meet at least twice in each Financial Year. Save in the case of emergencies or the need to conduct urgent business, the Secretary shall give at least fourteen days written notice of the date and place of every meeting of the Council of Governors to all Governors. Notice will also be published in a local newspaper or newspapers circulating in the area served by the Foundation Trust, and on the Foundation Trust’s website.

11.25 Meetings of the Council of Governors may be called by the Secretary, or by the Chair, or by ten Governors (including at least two elected Governors and two appointed Governors) who give written notice to the Secretary specifying the business to be carried out. The Secretary shall send a written notice to all Governors as soon as possible after receipt of such a request. The Secretary shall call a meeting on at least fourteen but not more than twenty-eight days’ notice to discuss the specified business. If the Secretary fails to call such a meeting then the Chair or ten Governors, whichever is the case, shall call such a meeting.

11.26 All meetings of the Council of Governors are to be General Meetings open to members of the public unless the Council of Governors decides otherwise in relation to all or part of a meeting for reasons of commercial confidentiality or on other proper grounds. The Chair may exclude any person from a meeting of the Council of Governors if they are interfering with or preventing the proper conduct of the meeting.

11.27 Thirteen Governors including not less than four Public Governors, not less than three Service-user/carer Governors, not less than two Staff Governors and not less than two appointed Governors shall form a quorum.

11.28 The Chair of the Foundation Trust or, in their absence, the Vice Chair of the Board of Directors, or in their absence one of the non-executive Directors is to 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 Deputy Chair of the Council of Governors will chair that part of the meeting.

11.29 For the purposes of obtaining information about the Foundation Trust’s performance of its functions or the Directors’ performance of their duties (and deciding whether to propose a vote on the Foundation Trust’s or Directors’ performance), the Council of Governors may require one or more of the Directors to attend a meeting.

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

11.31 Subject to this constitution and the following provisions of this paragraph, questions arising at a meeting of the Council of Governors shall be decided by a majority of votes.
11.31.1 In case of an equality of votes the person presiding at or chairing the meeting shall have a casting vote.

11.31.2 No resolution of the Council of Governors shall be passed if it is opposed by all of the Service User/Carer Governors and Public Governors present.

11.32 The Council of Governors may not delegate any of its powers to a committee or sub-committee, but it may appoint committees to assist the Council of Governors in carrying out its functions. The Council of Governors may appoint Governors and may invite Directors and other persons to serve on such committees. The Council of Governors may, through the Secretary, request that external advisors assist them or any committee they appoint in carrying out its duties.

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

Disclosure of interests

11.34 Any Governor who has a material interest in a matter as defined below shall declare such interest to the Council of Governors and:

11.34.1 shall withdraw from the meeting and play no part in the relevant discussion or decision; and

11.34.2 shall not vote on the issue (and if by inadvertence they do remain and vote, their vote shall not be counted).

11.35 Any Governor who fails to disclose any interest required to be disclosed under the preceding paragraph must permanently vacate their office if required to do so by a majority of the remaining Governors.

11.36 Subject to the exceptions below, a material interest is:

11.36.1 any directorship of a company;

11.36.2 any interest or position held by a Governor in any firm or company or business which, in connection with the matter, is trading with the Foundation Trust, or is likely to be considered as a potential trading partner with the Foundation Trust;

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

11.36.4 a position of authority in a charity or voluntary organisation in the field of health and social care; and/or

11.36.5 any connection with any organisation, entity or company considering entering into a financial arrangement with the Foundation Trust including but not limited to lenders or banks.

11.37 The exceptions which shall not be treated as material interests are as follows:
11.37.1 shares not exceeding 2% of the total shares in issue held in any company whose shares are listed on any public exchange;

11.37.2 an employment contract held by a Staff Governor;

11.37.3 an employment contract with a local authority held by a Local Authority Governor; and/or

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

11.38 The Council of Governors is to adopt its own standing orders for its practice and procedure, in particular for its procedure at meetings.

Declaration

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

12 BOARD OF DIRECTORS

12.1 The Foundation Trust is to have a Board of Directors. It is to consist of executive and non-executive Directors.

12.2 The board is to include:

12.2.1 the following non-executive Directors:

12.2.1.1 a Chair, who is to be appointed (and removed) by the Council of Governors at a General Meeting;

12.2.1.2 not less than five and not more than seven other non-executive Directors who are to be appointed (and removed) by the Council of Governors at a General Meeting;

in each case subject to the approval of a majority of the Council of Governors (in the case of an appointment) present and voting at the meeting, and three-quarters of all of the members of the Council of Governors (in the case of a removal) voting at the meeting;

12.2.2 the following executive Directors:

12.2.2.1 a Chief Executive (who is the accounting officer), who is to be appointed (and removed) by the non-executive Directors, and whose appointment is subject to the approval of a majority of the members
of the Council of Governors present and voting at a General Meeting:

12.2.2.2 a Finance Director, and other executive Directors, subject to a maximum of six executive Directors which must include a registered medical practitioner or a registered dentist, a registered nurse or registered midwife, all of whom are to be appointed (and removed) by a committee consisting of the Chair, the Chief Executive and the other non-executive Directors.

12.3 The Board of Directors shall appoint one of the non-executive Directors to be Vice-Chair of the Board of Directors. If the Chair is unable to discharge their office as Chair of the Foundation Trust, the Vice-Chair of the Board of Directors shall be acting Chair of the Foundation Trust.

12.4 The Chief Executive shall nominate one of the executive Directors to be Deputy Chief Executive.

12.5 Only a member of one of the public constituencies or service-user/carers’ constituency is eligible for appointment as a non-executive Director.

12.6 Non-executive Directors are to be appointed by the Council of Governors using the following procedure:

- 12.6.1 the Council of Governors will maintain a policy for the composition of the non-executive Directors which takes account of the membership strategy, and which they shall review from time to time and not less than every three years;

- 12.6.2 the Board of Directors may work with an external organisation recognised as expert at appointments to identify the skills and experience required for non-executive Directors;

- 12.6.3 appropriate candidates (not more than five for each vacancy) will be identified by a Nominations Committee through a process of open competition, which take account of the policy maintained by the Council of Governors and the skills and experience required; and

- 12.6.4 the Nominations Committee will comprise the Chair of the Foundation Trust (or the Vice Chair unless they are standing for appointment, in which case another non-executive director, when a Chair is being appointed), two elected Governors and one Appointed Governor.

12.7 The removal of the Chair or another non-executive Director shall be in accordance with the following procedures:

- 12.7.1 any proposal for removal must be proposed by a Governor and seconded by not less than ten Governors including at least two elected Governors and two appointed Governors;
12.7.2 written reasons for the proposal shall be provided to the non-executive Director in question, who shall be given the opportunity to respond to such reasons;

12.7.3 in making any decision to remove a non-executive Director, the Council of Governors shall take into account any annual appraisal carried out by the Chair; and

12.7.4 if any proposal to remove a non-executive Director is not approved at a meeting of the Council of Governors, no further proposal can be put forward to remove such non-executive Director based upon the same reasons within 12 months of the meeting.

Terms of Office

12.8 The Chair and other non-executive Directors shall hold office for a period of up to three years, and are eligible for re-appointment after a three year period of office.

12.9 The Chair and other non-executive Directors may not hold office for more than three successive terms (nine consecutive years in total).

12.10 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.

12.11 The Chair and the non-executive Directors are to be appointed in accordance with the terms and conditions of office, decided by the Council of Governors at a General Meeting. Any re-appointment of a non-executive Director by the Council of Governors shall be subject to a satisfactory appraisal carried out in accordance with procedures which the Board of Directors have approved.

12.12 The remuneration committee of non-executive Directors shall decide the terms and conditions of office including remuneration and allowances of all the executive Directors.

Disqualification

12.13 A person may not become or continue as a Director of the Foundation Trust if:

12.13.1 they are a member of the Council of Governors;

12.13.2 they are the spouse, partner, parent or child of a member of the Board of Directors of the Foundation Trust;

12.13.3 they are a member of a local authority’s Scrutiny Committee covering health matters;

12.13.4 they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;

12.13.5 they are a person in relation to whom a moratorium period under a debt relief order applies (under part 7A of the Insolvency Act 1986);
12.13.6 they have made a composition or arrangement with, or granted a Trust deed for, their creditors and have not been discharged in respect of it;

12.13.7 they have 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;

12.13.8 they are the subject of a disqualification order made under the Company Directors Disqualification Act 1986;

12.13.9 they are a person whose tenure of office as a Chair 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;

12.13.10 they have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;

12.13.11 on the basis of disclosures obtained through an application to the Disclosure and Barring Service established under section 87 of the Protection of Freedoms Act 2012 (or any other checks required by the Foundation Trust from time to time as being consistent with its licence conditions or mandatory or nationally recommended good governance arrangements), they are not considered suitable by the Foundation Trust’s executive Director responsible for Human Resources or the Chairman;

12.13.12 in the case of a non-executive Director they have refused without reasonable cause to fulfil any training requirement established by the Board of Directors;

12.13.13 they have refused to sign and deliver to the Secretary a statement in the form required by the Board of Directors confirming acceptance of the code of conduct for Directors;

12.13.14 in the case of a non-executive Director, they are no longer a member of one of the public constituencies or the service-user/carers’ constituency; and/or

12.13.15 they do 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 or updated from time to time).
12.14 The Board of Directors may delegate any of its powers to a committee of Directors or to an executive Director.

12.15 The Board of Directors shall appoint an audit committee of non-executive Directors to perform such monitoring, reviewing and other functions as are appropriate.

12.16 The Board of Directors shall appoint a remuneration committee of non-executive Directors to decide the remuneration and allowances, and the other terms and conditions of office, of the executive Directors.

Meetings of the Board of Directors

12.17 Save in the case of emergencies or the need to conduct urgent business, the Secretary shall give to all Directors at least fourteen days written notice of the date and place of every meeting of the Board of Directors.

12.18 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, including but not limited to where the Board of Directors decides all or part of a meeting must be held in private for reasons of commercial confidentiality or on other proper grounds. The Chair may exclude any member of the public from a meeting of the Board of Directors if they are interfering with or preventing the proper conduct of the meeting.

12.19 Meetings of the Board of Directors are called by the Secretary, or by the Chair, or by four Directors who give written notice to the Secretary specifying the business to be carried out. The Secretary shall send a written notice to all Directors as soon as possible after receipt of such a request. The Secretary shall call a meeting on at least fourteen but not more than twenty-eight days’ notice to discuss the specified business. If the Secretary fails to call such a meeting then the Chair or four Directors, whichever is the case, shall call such a meeting.

12.20 Seven Directors including not less than two executive Directors (one of whom must be the Chief Executive or the Deputy Chief Executive), and not less than two non-executive Directors (one of whom must be the Chair or the Vice-Chair of the Board) shall form a quorum.

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

12.22 The Chair of the Foundation Trust or, in their absence, the Vice-Chair of the Board of Directors, is to chair meetings of the Board of Directors.

12.23 Subject to the following provisions of this paragraph, questions arising at a meeting of the Board of Directors shall be decided by a majority of votes.

12.23.1 In case of an equality of votes the Chair shall have a second and casting vote.
12.23.2 No resolution of the Board of Directors shall be passed if it is opposed by all of the non-executive Directors present or by all of the executive Directors present.

12.24 The Board of Directors is to adopt Standing Orders covering the proceedings and business of its meetings. The proceedings shall not however be invalidated by any vacancy of its membership, or defect in a Director’s appointment.

Conflicts of Interest of Directors

12.25 Any Director who has a material interest in a matter as defined below shall declare such interest to the Board of Directors and:

12.25.1 shall withdraw from the meeting and play no part in the relevant discussion or decision; and

12.25.2 shall not vote on the issue (and if by inadvertence they do remain and vote, their vote shall not be counted).

12.26 Details of any such interest shall be recorded in the register of the interests of Directors.

12.27 Any Director who fails to disclose any interest required to be disclosed under the preceding paragraph must permanently vacate their office if required to do so by a majority of the remaining Directors and (in the case of a non-executive Director) by the requisite majority of the Council of Governors.

12.28 A material interest is:

12.28.1 any directorship of a company;

12.28.2 any interest (excluding a holding of shares in a company whose shares are listed on any public exchange where the holding is less than 2% of the total shares in issue) or position held by a Director in any firm or company or business which, in connection with the matter, is trading with the Foundation Trust, or is likely to be considered as a potential trading partner with the Foundation Trust;

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

12.28.4 a position of authority in a charity or voluntary organisation in the field of health and social care; and/or

12.28.5 any connection with any organisation, entity or company considering entering into a financial arrangement with the Foundation Trust including but not limited to lenders or banks.

12.29 A material interest shall have been authorised if:

12.29.1 the Board of Directors by majority disapproves the provision of the constitution which would otherwise prevent a Director from being counted as participating in the decision-making process;
12.29.2 the Director’s interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or

12.29.3 the Director’s conflict of interest arises from a permitted cause.

12.29.4 For the purposes of paragraph 12.29.3, the following is a permitted cause:

12.29.4.1 a guarantee given, or to be given, by or to a Director in respect of an obligation incurred by or on behalf of the Foundation Trust or any of its subsidiaries.

12.30 For the purposes of this paragraph, references to proposed decisions and decision-making processes include any Directors’ meeting or part of a Directors’ meeting.

12.31 Subject to paragraph 12.32, if a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chair whose ruling in relation to any Director other than the Chair is to be final and conclusive.

12.32 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chair, the question is to be decided by a decision of the Directors at that meeting, for which purpose the Chair is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

12.33 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 of arrangement in question.

12.34 Should an interest in a matter for consideration or decision at a board meeting or board committee meeting affect either all the non-executive Directors or all the executive Directors, the Directors present not affected by the interest will form the quorum for that item.

**Expenses**

12.35 The Foundation Trust may reimburse executive Directors travelling and other costs and expenses incurred in carrying out their duties at such rates as the remuneration committee of non-executive Directors decides. These are to be disclosed in the annual report.

12.36 The remuneration and allowances for Directors are to be disclosed in bands in the annual report.
13 REGISTERS

13.1 The Foundation Trust is to have:

13.1.1 a register of members showing, in respect of each member, the constituency and (where relevant) the class of a constituency to which they belong;

13.1.2 a register of members of the Council of Governors;

13.1.3 a register of Directors;

13.1.4 a register of interests of Governors; and

13.1.5 a register of interests of the Directors.

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

14 PUBLIC DOCUMENTS

14.1 The following documents of the Foundation Trust are to be available for inspection by members of the public free of charge at all reasonable times, and shall be available on the Foundation Trust’s website:

14.1.1 a copy of the current constitution;

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

14.1.3 a copy of the report of any other external auditor of the Foundation Trust’s affairs appointed by the Council of Governors;

14.1.4 a copy of the latest annual report;

14.1.5 a copy of the latest information as to its forward planning;

14.1.6 a copy of the Foundation Trust’s membership development strategy; and

14.1.7 a copy of the Foundation Trust’s policy for the composition of the Council of Governors and of the non-executive Directors; and

14.1.8 a copy of any notice, information, order, statement, or report given under paragraph 22(1) of schedule 7 to the 2006 Act.

14.2 The registers specified in paragraph 13 above shall be made available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations. The Foundation Trust shall
not make any part of its registers available for inspection by members of the public which shows details of:

14.2.1 any member of the service user/carers’ Constituency where that member has not consented to his details being made available; or

14.2.2 any other member of the Foundation Trust, if they so request, and so far as they are required to be available they are to be available free of charge at all reasonable times.

14.3 Any person who requests it is to be provided with a copy or extract from any of the above documents or registers. The Foundation Trust may impose a reasonable charge for providing the copy or extract, but a member is entitled to a copy or extract from the registers free of charge.

15 AUDITOR

15.1 The Foundation Trust shall have an auditor.

15.2 The Council of Governors at a General Meeting shall appoint or remove the Foundation Trust’s auditor.

16 ACCOUNTS

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

16.2 Monitor may with the approval of the Secretary of State give directions to the Foundation Trust as to the content and form of its accounts.

16.3 The accounts are to be audited by the Foundation Trust’s auditor.

16.4 The Foundation Trust shall prepare in respect of each Financial Year annual accounts in such form as Monitor may with the approval of the Secretary of State direct.

16.5 The following documents will be made available to the Comptroller and Auditor General for examination at his request:

16.5.1 the accounts;

16.5.2 the records relating to them; and

16.5.3 any report of the auditor on them.

16.6 The accounting officer shall cause the Foundation Trust to prepare in respect of each Financial Year annual accounts in such form as Monitor may with the approval of the Secretary of State direct.
16.7 In preparing its annual accounts, the accounting officer shall cause the Foundation Trust to comply with any directions given by Monitor with the approval of the Secretary of State as to:

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

16.7.2 the content and form of the accounts.

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

16.9 The accounting officer shall cause the Foundation Trust to:

16.9.1 lay a copy of the annual accounts, and any report of the auditor on them, before Parliament; and

16.9.2 once it has done so, send copies of those documents to Monitor within such a period as Monitor may direct.

17 ANNUAL REPORTS, FORWARD PLANS AND NON-NHS WORK

17.1 The Foundation Trust is to prepare annual reports and send them to Monitor.

17.2 The reports are to give:

17.2.1 information on any steps taken by the Foundation Trust to secure that (taken as a whole) the actual membership of its public constituencies, the classes of the service-user/carers' constituency and of the classes of the staff constituency is representative of those eligible for such membership;

17.2.2 information on any occasions in the period to which the report relates on which the Council of Governors exercised its power under paragraph 11.29 above;

17.2.3 information on the Foundation Trust's policy on pay and on the work of the committee established under paragraph 12.12 above and such other procedures as the Foundation Trust has on pay;

17.2.4 information on the remuneration of the Directors and on the expenses of the Governors and the Directors; and

17.2.5 any other information Monitor requires.

17.3 The Foundation Trust is to comply with any decision Monitor makes as to:

17.3.1 the form of the reports;

17.3.2 when the reports are to be sent to him; and

17.3.3 the periods to which the reports are to relate.
17.4 The Foundation Trust is to give information as to its forward planning in respect of each Financial Year to Monitor. The document containing this information is to be prepared by the Directors, and in preparing the document, the Board of Directors must have regard to the views of the Council of Governors.

17.5 Each forward plan must include information about:

17.5.1 the activities other than the provision of goods and services for the purposes of the health service in England that the Foundation Trust proposes to carry on; and

17.5.2 the income it expects to receive from doing so.

17.6 Where a forward plan contains a proposal that the Foundation Trust carry on an activity of a kind mentioned in sub-paragraph 17.5.1 the Council of Governors must:

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

17.6.2 notify the Directors of the Foundation Trust of its determination.

17.7 Where the Foundation Trust 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 it may implement the proposal only if more than half of the members of the Council of Governors of the Foundation Trust voting approve its implementation.

18 INDEMNITY

18.1 Members of the Council of Governors and the Board of Directors and the 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 functions, save where they have acted recklessly. Any costs arising in this way will be met by the Foundation Trust. The Foundation Trust may purchase and maintain insurance against this liability for its own benefit and for the benefit of the Council of Governors and the Board of Directors and the Secretary.

19 EXECUTION OF DOCUMENTS

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

19.2 The Foundation Trust is to have a seal, but this is not to be affixed except under the authority of the Board of Directors.
20 DISPUTE RESOLUTION PROCEDURES

20.1 Every unresolved dispute which arises out of this constitution between the Foundation Trust and:

20.1.1 a member; or

20.1.2 any person aggrieved who has ceased to be a member within the six months prior to the date of the dispute; or

20.1.3 any person bringing a claim under this constitution; or

20.1.4 an office-holder of the Foundation Trust,

is to be submitted to an arbitrator agreed by the parties. The arbitrator's decision will be binding and conclusive on all parties.

20.2 Any person bringing a dispute must, if required to do so, deposit with the Foundation Trust a reasonable sum (not exceeding £250) to be determined by the Council of Governors and approved by the Secretary. The arbitrator will decide how the costs of the arbitration will be paid and what should be done with the deposit.

21 AMENDMENT OF THE CONSTITUTION

21.1 The Foundation Trust may make amendments of its constitution only if:

21.1.1 more than half of the members of the Council of Governors of the Foundation Trust voting approve the amendments; and

21.1.2 more than half of the members of the Board of Directors of the Foundation Trust voting approve the amendments.

21.2 Amendments made under paragraph 21.1 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.

21.3 Where an amendment is made to the constitution in relation 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 Foundation Trust):

21.3.1 at least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment; and

21.3.2 the Foundation Trust must give the members an opportunity to vote on whether they approve the amendment.

21.4 If more than half of the members voting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the Foundation Trust must take such steps as are necessary as a result.
21.5 Amendments by the Foundation Trust of its constitution are to be notified to Monitor. For the avoidance of doubt, Monitor’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.

22 MERGERS ETC. AND SIGNIFICANT TRANSACTIONS

22.1 The Foundation 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.

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

22.3 In paragraph 22.2, the following words have the following meanings:

22.4 “significant transaction” means a transaction which meets any one of the tests below:

22.4.1 the fixed/gross asset test; or
22.4.2 the turnover/income test; or
22.4.3 the gross capital test (relating to acquisitions or divestments).

The fixed asset test:

22.4.4 is met if the assets which are the subject of the transaction exceed 10% of the fixed assets of the Foundation Trust.

The turnover test:

22.4.5 is met if, following the completion of the relevant transaction, the gross income of the Foundation Trust will increase or decrease by more than 10%.

The gross capital test:

22.4.6 is met if the gross capital of the company or business being acquired or divested represents more than 10% of the capital of the Foundation Trust following completion (where “gross capital” is the market value of the relevant company or business’s shares and debt securities, plus the excess of current liabilities over current assets, and the Foundation Trust’s capital is determined by reference to its balance sheet).

22.4.7 for the purposes of calculating the tests in this paragraph 22.4 figures used to classify assets and profits must be the figures shown in the latest published audited consolidated accounts.

A transaction:

22.4.8 includes all agreements (including amendments to agreements) entered into by the Foundation Trust; but
22.4.8.1 excludes a transaction in the ordinary course of business (including the renewal, extension or entering into an agreement in respect of healthcare services carried out by the Foundation Trust);

22.4.8.2 excludes any agreement or changes to healthcare services carried out by the Foundation Trust following a reconfiguration of services led by the commissioners of such services;

22.4.8.3 excludes any grant of public dividend capital or the entering into of a working capital facility or other loan, which does not involve the acquisition or disposal of any fixed asset of the Foundation Trust.

23 HEAD OFFICE

23.1 The Foundation Trust's head office is at Pinewood House, Pinewood Place, Dartford, Kent DA2 7WG or such other place as the Board of Directors shall decide.

24 NOTICES

24.1 Any notice required by this constitution to be given shall be given in writing or shall be given using electronic communications to an address for the time being notified for that purpose. “Address” in relation to electronic communications includes any number or address used for the purposes of such communications.

24.2 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be treated as delivered 48 hours after the envelope containing it was posted or, in the case of a notice contained in an electronic communication, 48 hours after it was sent.
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2. Bromley – the electoral area covered by the London Borough of Bromley
3. Greenwich – the electoral area covered by the London Borough of Greenwich
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Oxleas NHS Foundation Trust
(Council of Governors)
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Updated: September/October 2015
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**Expenses**

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**PART 11 QUESTIONING ELECTIONS AND IRREGULARITIES**

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PART 1 INTERPRETATION

2. Interpretation

2.1. 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;

“council of governors” means board of governors as defined in 2003 Act;

“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)

"2006 Act" means the National Health Service Act 2006;

"corporation" means the public benefit corporation subject to this constitution;

"council of governors" means the council of governors of the corporation;

"declaration of identity" has the meaning set out in rule 21.1;

"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;

"e-voting" means voting using either the internet, telephone or text message;

"e-voting information" has the meaning set out in rule 24.2;

"ID declaration form" has the meaning set out in Rule 21.1;

"internet voting record" has the meaning set out in rule 26.4(d);

"internet voting system" means such computer hardware and software, data other equipment and services as may be provided by the returning officer for the purpose of enabling voters to cast their votes using the internet;
"lead governor" means the governor nominated by the corporation to fulfil the role described in Appendix B to The NHS Foundation Trust Code of Governance (Monitor, December 2013) or any later version of such code;

"list of eligible voters" means the list referred to in rule 22.1, containing the information in rule 22.2;

"method of polling" means a method of casting a vote in a poll, which may be by post, internet, text message or telephone;

"Monitor" means the corporate body known as Monitor as provided by section 61 of the 2012 Act;

"numerical voting code" has the meaning set out in rule 64.2(b);

"poling website" has the meaning set out in rule 26.1;

"postal voting information" has the meaning set out in rule 24.1;

"telephone short code" means a short telephone number used for the purposes of submitting a vote by text message;

"telephone voting facility" has the meaning set out in rule 26.2;

"telephone voting record" has the meaning set out in rule 26.5 (d);

"text message voting facility" has the meaning set out in rule 26.3;

"text voting record" has the meaning set out in rule 26.6 (d);

"the telephone voting system" means such telephone voting facility as may be provided by the returning officer for the purpose of enabling voters to cast their votes by telephone;

"the text message voting system" means such text messaging voting facility as may be provided by the returning officer for the purpose of enabling voters to cast their votes by text message;

"voter ID number" means a unique, randomly generated numeric identifier allocated to each voter by the returning officer for the purpose of e-voting;

"voting information" means postal voting information and/or e-voting information.

2.2 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

Updated: September/October 2015
3. **Timetable**

The proceedings at an election shall be conducted in accordance with the following timetable:

<table>
<thead>
<tr>
<th>Proceeding</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication of notice of election</td>
<td>Not later than the fortieth 40th day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Final day for delivery of nomination papers/forms to returning officer</td>
<td>Not later than the twenty-eighth 28th day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Publication of statement of nominated candidates</td>
<td>Not later than the twenty-seventh 27th day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Final day for delivery of notices of withdrawals by candidates from election</td>
<td>Not later than twenty-fifth 25th day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Notice of the poll</td>
<td>Not later than the fifteenth 15th day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Close of the poll</td>
<td>By 5.00pm on the final day of the election.</td>
</tr>
</tbody>
</table>

4. **Computation of time**

4.1. 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;

(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.

4.2. In this rule, “bank holiday” means a day which is a bank holiday.
PART 3  RETURNING OFFICER

5. Returning officer

5.1. Subject to rule 6469, the returning officer for an election is to be appointed by the corporation.

5.2. Where two or more elections are to be held concurrently, the same returning officer may be appointed for all those elections.

6. Staff

6.1. Subject to rule 6469, 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.

7. Expenditure

7.1. 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.

8. Duty of co-operation

8.1. 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

9. Notice of election

9.1. 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 (including, where the return of nomination forms in an electronic format will be permitted, the email address for such return) 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.

10. Nomination of candidates

10.1. Subject to rule 9.2, each candidate must nominate themselves on a single nomination paper form.

10.2. The returning officer:

(a) is to supply any member of the corporation with a nomination paper form; and

(b) is to prepare a nomination paper form 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 and a nomination can, subject to rule 13, be in an electronic format.

11. Candidate's particulars

11.1. The nomination paper must state the candidate’s:

(a) full name;

(b) contact address in full, (which should be a postal address although an email address may also be provided for the purposes of electronic communication); and

(c) constituency, or class within a constituency, of which the candidate is a member.
12. **Declaration of interests**

12.1. The nomination paperform 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.

13. **Declaration of eligibility**

13.1. The nomination paper form 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 17 of the Act or by any provision of the constitution; and,

(b) for a member of the public or service user/carers' 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.

14. **Signature of candidate**

14.1. The nomination paperform must be signed and dated by the candidate, in a manner prescribed by the returning officer, 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.

14.2. Where the return of nomination forms in an electronic format is permitted, the returning officer shall specify the particular signature formalities (if any) that will need to be complied with by the candidate.

15. **Decisions as to the validity of nomination**

15.1. Where a nomination paperform 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 paperform 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.

15.2. (2) The returning officer is entitled to decide that a nomination paperform is invalid only on one of the following grounds:

1.(a) that the paper is not received on or before the final time and date for return of nomination paperforms, as specified in the notice of the election;
2.(b) that the paper does not contain the candidate’s particulars, as required by rule 10;
3.(c) that the paper does not contain a declaration of the interests of the candidate, as required by rule 11;
4.(d) that the paper does not include a declaration of eligibility as required by rule 12; or
5.(e) that the paper is not signed and dated by the candidate, as if required by rule 13.

15.3. (3) The returning officer is to examine each nomination paperform as soon as is practicable after he or she has received it, and decide whether the candidate has been validly nominated.

15.4. (4) Where the returning officer decides that a nomination is invalid, the returning officer must endorse this on the nomination paperform, stating the reasons for their decision.

15.5. (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 paperform. If an email address has been given in the candidate’s nomination form (in addition to the candidate’s postal address), the returning officer may send notice of the decision to that address.

16. Publication of statement of candidates — (1)

16.1. The returning officer is to prepare and publish a statement showing the candidates who are standing for election.
16.2. (2) The statement must show –:

(a) the name, contact address (which shall be the candidate’s postal 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 form.

16.3. (3) The statement must list the candidates standing for election in alphabetical order by surname.

16.4. (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.

17. Inspection of statement of nominated candidates and nomination papers – (1)

17.1. The corporation is to make the statement of the candidates and the nomination papers supplied by the returning officer under rule 15(4) available for inspection by members of the corporation free of charge at all reasonable times.

17.2. (2) If a member of the corporation requests a copy or extract of the statement of candidates or their nomination papers, the corporation is to provide that member with the copy or extract free of charge.

18. Withdrawal of candidates –

18.1. 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.

19. Method of election – (1)

19.1. 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.
19.2. (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.

19.3. (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

PART 5 19. COUNTING THE VOTES

20. Poll to be taken by ballot—(1)

20.1. The votes at the poll must be given by secret ballot.

20.2. The votes are to be counted and the result of the poll determined in accordance with Part 6 of these rules.

20.3. The corporation may decide that voters within a constituency or class within a constituency, may, subject to rule 19.4, cast their votes at the poll using such different methods of polling in any combination as the corporation may determine.

20.4. The corporation may decide that voters within a constituency or class within a constituency for whom an email address is included in the list of eligible voters may only cast their votes at the poll using an e-voting method of polling.

20.5. Before the corporation decides, in accordance with rule 19.3 that one or more e-voting methods of polling will be made available for the purposes of the poll, the corporation must satisfy itself that:

(a) if internet voting is to be a method of polling, the internet voting system to be used for the purpose of the election is:

(i) configured in accordance with these rules; and

(ii) will create an accurate internet voting record in respect of any voter who casts his or her vote using the internet voting system.
system;

(b) if telephone voting is to be a method of polling, the telephone voting system to be used for the purpose of the election is:

(i) configured in accordance with these rules; and

(ii) will create an accurate telephone voting record in respect of any voter who casts his or her vote using the telephone voting system;

(c) if text message voting is to be a method of polling, the text message voting system to be used for the purpose of the election is:

(i) configured in accordance with these rules; and

(ii) will create an accurate text message voting record in respect of any voter who casts his or her vote using the text message voting system.

21. The ballot paper

21.1. The ballot of each voter (other than a voter who casts his or her ballot by an e-voting method of polling) 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.

21.2. (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, by all available methods of polling, including the relevant voter’s voter ID number if one or more e-voting methods of polling are available;

(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.

21.3. (3) Each ballot paper must have a unique identifier.
21.4 (4) Each ballot paper must have features incorporated into it to prevent it from being reproduced.

22. 21. The declaration of identity (public and service user/carers' constituencies) (1) In respect of

22.1. The corporation shall require each voter who participates in an election for a public or service user/carers' constituency to make a declaration of identity must be issued with each ballot paper confirming:

(2) The declaration of identity is to include a declaration—

(a) that the voter is the person:
   (i) to whom the ballot paper was addressed; and/or
   (ii) that to whom the voter ID number contained within the e-voting information was allocated;

(b) that he or she has not marked or returned any other voting paper information in the election; and

(c) for a member of the public or service user/carers constituency, of the particulars of that member's qualification to vote as a member of the constituency or class within the constituency for which the election is being held;

(3) The ("declaration of identity") and the corporation shall make such arrangements as it considers appropriate to include space for facilitate the making and the return of a declaration of identity by each voter, whether by the completion of a paper form ("ID declaration form") or the use of an electronic method.

(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.

22.2. (4) The voter must be required to return his or her declaration of identity with his or her ballot.

The voting information shall caution the voter that if the declaration of identity together with the ballot paper.

22.3. (5) The declaration of identity must caution the voter that, if it is not duly returned with the ballot paper, or if it is returned without being having been made correctly completed, any vote cast by the voter's ballot paper/voter...
may be declared invalid.

Action to be taken before the poll

23. 22. List of eligible voters

23.1. 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 2627 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.

23.2. (2) The list is to include, for each member:

(a) a mailing postal address where, and,

(b) the member's email address, if this has been provided;

to which his or her ballot paper voting information may, subject to rule 22.3, be sent.

23.3. The corporation may decide that the e-voting information is to be sent only by email to

those members in the list of eligible voters for whom an email address is included in that list.

24. 23. Notice of poll

24.1. The returning officer is to publish a notice of the poll stating—;

(a) (a) the name of the corporation;

(b) (b) the constituency, or class within a constituency, for which the election is being held;

(c) (c) the number of members of the council of governors to be elected from that constituency, or class with that constituency;

(d) (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) (e) that the ballot papers for the election are to be issued and returned, if appropriate, by post;

(f) (f) the methods of polling by which votes may be cast at the election by voters in a constituency or class within a constituency, as determined by the corporation in accordance with rule 19.3.
(g) the address for return of the ballot papers; and

(h) the uniform resource locator (URL) where, if internet voting is a method of polling, the polling website is located;

(i) the telephone number where, if telephone voting is a method of polling, the telephone voting facility is located;

(j) the telephone number or telephone short code where, if text message voting is a method of polling, the text message voting facility is located;

(k) the date and time of the close of the poll;

(l) (g) the address and final dates for applications for replacement ballot papers, voting information; and

(m) (h) the contact details of the returning officer.

25. 24. Issue of voting documents information by returning officer

25.1 Subject to rule 24.3, 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 information by post to each member of the corporation named in the list of eligible voters:

(a) a ballot paper and ballot paper envelope;

(b) the ID declaration of identity form (if required);

(c) information about each candidate standing for election, pursuant to rule 5964 of these rules; and

(d) a covering envelope.

25.2 The documents are ("postal voting information").

Subject to rules 24.3 and 24.4, 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 information by email and/or by post to each member of the corporation named in the list of eligible voters whom the corporation determines in accordance with rule 19.3 and/or rule 19.4 may cast his or her vote by an e-voting method of polling:

(a) instructions on how to vote and how to make a declaration of identity (if required);

(b) the voter’s voter ID number;

(c) information about each candidate standing for election, pursuant to rule 64 of these rules, or details of where this information is readily available.
available on the internet or available in such other formats as the returning officer thinks appropriate. (d) contact details of the returning officer;  
("e-voting information").

25.3. The corporation may determine that any member of the corporation shall:
(a) only be sent postal voting information; or
(b) only be sent e-voting information; or
(c) be sent both postal voting information and e-voting information; for the mailing purposes of the poll.

25.4. If the corporation determines, in accordance with rule 22.3, that the e-voting information is to be sent only by email to those members in the list of eligible voters for whom an email address is included in that list, then the returning officer shall only send that information by email.

25.5. The voting information is to be sent to the postal address and/or email address for each member, as specified in the list of eligible voters.

26.25. Ballot paper envelope and covering envelope—(1)

26.1. 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.

26.2. 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.

26.3. 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 ID declaration of identity form if required; and
(b) the ballot paper envelope, with the ballot paper sealed inside it.

The poll

27. 26. E-Voting systems
27.1. If internet voting is a method of polling for the relevant election then the returning officer must provide a website for the purpose of voting over the internet (in these rules referred to as “the polling website”).

27.2. If telephone voting is a method of polling for the relevant election then the returning officer must provide an automated telephone system for the purpose of voting by the use of a touch-tone telephone (in these rules referred to as “the telephone voting facility”).

27.3. If text message voting is a method of polling for the relevant election then the returning officer must provide an automated text messaging system for the purpose of voting by text message (in these rules referred to as “the text message voting facility”).

27.4. The returning officer shall ensure that the polling website and internet voting system provided will:

(a) require a voter to:

(i) enter his or her voter ID number; and

(ii) where the election is for a public or service user/carers’ constituency, make a declaration of identity;

in order to be able to cast his or her vote;

(b) specify:

(i) the name of the corporation;

(ii) the constituency, or class within a constituency, for which the election is being held;

(iii) the number of members of the council of governors to be elected from that constituency, or class within that constituency;

(iv) 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;

(v) instructions on how to vote and how to make a declaration of identity;

(vi) the date and time of the close of the poll; and

(vii) the contact details of the returning officer;

(c) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(d) create a record (“internet voting record”) that is stored in the internet voting system in respect of each vote cast by a voter using the internet that comprises of:

(i) the voter’s voter ID number;
(ii) the voter’s declaration of identity (where required);
(iii) the candidate or candidates for whom the voter has voted; and
(iv) the date and time of the voter’s vote;
(e) if the voter’s vote has been duly cast and recorded, provide the voter with confirmation of this; and
(f) prevent any voter from voting after the close of poll.

27.5. The returning officer shall ensure that the telephone voting facility and telephone voting system provided will:

(a) require a voter to:

   (i) enter his or her voter ID number in order to be able to cast his or her vote; and
   (ii) where the election is for a public or service user/carers’ constituency, make a declaration of identity;

(b) specify:

   (i) the name of the corporation;
   (ii) the constituency, or class within a constituency, for which the election is being held;
   (iii) the number of members of the council of governors to be elected from that constituency, or class within that constituency;
   (iv) instructions on how to vote and how to make a declaration of identity;
   (v) the date and time of the close of the poll; and
   (vi) the contact details of the returning officer;

(c) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(d) create a record ("telephone voting record") that is stored in the telephone voting system in respect of each vote cast by a voter using the telephone that comprises of:

   (i) the voter’s voter ID number;
   (ii) the voter’s declaration of identity (where required);
   (iii) the candidate or candidates for whom the voter has voted; and
   (iv) the date and time of the voter’s vote;
(e) if the voter’s vote has been duly cast and recorded, provide the voter with confirmation of this;

(f) prevent any voter from voting after the close of poll.

27.6. The returning officer shall ensure that the text message voting facility and text messaging voting system provided will:

(a) require a voter to:
   (i) provide his or her voter ID number; and
   (ii) where the election is for a public or service user/carers’ constituency, make a declaration of identity; in order to be able to cast his or her vote;

(b) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(c) create a record ("text voting record") that is stored in the text messaging voting system in respect of each vote cast by a voter by text message that comprises of:
   (i) the voter’s voter ID number;
   (ii) the voter’s declaration of identity (where required);
   (iii) the candidate or candidates for whom the voter has voted; and
   (iv) the date and time of the voter’s vote;

(d) if the voter’s vote has been duly cast and recorded, provide the voter with confirmation of this;

(e) prevent any voter from voting after the close of poll.

The poll

28. Eligibility to vote—

28.1. 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.

29. Voting by persons who require assistance—(1)

29.1. The returning officer is to put in place arrangements to enable requests for assistance to vote to be made.

29.2. 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.
30. **Spoilt ballot papers (1) - and spoilt text message votes**

30.1 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 as a "spoilt ballot paper"), that voter may apply to the returning officer for a replacement ballot paper.

30.2 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.

30.3 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 completed ID declaration of identity form, if required, has not been returned.

30.4 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.

30.5 If a voter has dealt with his or her text message vote in such a manner that it cannot be accepted as a vote (referred to as a "spoilt text message vote"), that voter may apply to the returning officer for a replacement voter ID number.

30.6 On receiving an application, the returning officer is to obtain the details of the voter ID number on the spoilt text message vote, if he or she can obtain it.

30.7 The returning officer may not issue a replacement voter ID number in respect of a spoilt text message vote unless he or she is satisfied as to the voter's identity.

30.8 After issuing a replacement voter ID number in respect of a spoilt text message vote, the returning officer shall enter in a list ("the list of spoilt text message votes"): 

(a) the name of the voter; and
(b) the details of the voter ID number on the spoilt text message vote (if that officer was able to obtain it); and
(c) the details of the replacement voter ID number issued to the voter.

31. **Lost ballot papers – (1) voting information**

31.1. Where a voter has not received his or her ballot paper voting information by the fourteenth day before the close of the poll, that voter may apply to the returning officer for a replacement ballot paper voting information.

31.2. (2) The returning officer may not issue a replacement ballot paper for a voting information in respect of lost ballot paper voting information 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 voting information;
(c) has ensured that the declaration of identity, if required, has not been returned.

31.3. (3) After issuing a replacement ballot paper for a voting information in respect of lost ballot paper voting information, the returning officer shall enter in a list ("the list of lost ballot papers")—documents:

(a) the name of the voter, and;
(b) the details of the unique identifier of the replacement ballot paper, if applicable; and
(c) the voter ID number of the voter.

32. **Issue of replacement ballot paper – (1) voting information**

32.1. If a person applies for a replacement ballot paper voting information under rule 28(2) or 29(3) 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 voting information unless, in addition to the requirements imposed by rule 28(2) or 29(3), 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.

32.2. (2) After issuing a replacement ballot paper voting information under this rule, the returning officer shall enter in a list ("the list of tendered ballot papers")—voting information":

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(a) the name of the voter; and;
(b) the details of the unique identifier of the replacement ballot paper issued under this rule;
(c) the voter ID number of the voter.

33. **ID declaration form**

33.1. In respect of an election for a public or service user/carers' constituency, an ID declaration of identity form must be issued with each replacement ballot paper requiring the voter to make a declaration of identity.

(2) The declaration of identity is to include a declaration –

(a) that **Polling by internet, telephone or text**

34. **Procedure for remote voting by internet**

34.1. To cast his or her vote using the internet, a voter has not voted will need to gain access to the polling website by keying in the url of the polling website provided in the voting information.

34.2. When prompted to do so, the voter will need to enter his or her voter ID number.

34.3. If the internet voting system authenticates the voter ID number, the system will give the voter access to the polling website for the election with any ballot paper other than the ballot paper being returned with the declaration, and in which the voter is eligible to vote.

34.4. (b) To cast his or her vote, the voter will need to key in a mark on the screen opposite the particulars of that member's qualification to vote as a member of the public or service user/carers' constituency, the candidate or class within a constituency, candidates for which the election is being held, whom he or she wishes to cast his or her vote.

(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.
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.

The voter will not be able to access the internet voting system for an election once his or her vote at that election has been cast.

Voting procedure for remote voting by telephone

To cast his or her vote by telephone, the voter will need to gain access to the telephone voting facility by calling the designated telephone number provided in the voter information using a telephone with a touch-tone keypad.

When prompted to do so, the voter will need to enter his or her voter ID number using the keypad.

If the telephone voting facility authenticates the voter ID number, the voter will be prompted to vote in the election.

When prompted to do so the voter may then cast his or her vote by keying in the numerical voting code of the candidate or candidates, for whom he or she wishes to vote.

The voter will not be able to access the telephone voting facility for an election once his or her vote at that election has been cast.

Voting procedure for remote voting by text message

To cast his or her vote by text message the voter will need to gain access to the text message voting facility by sending a text message to the designated telephone number or telephone short code provided in the voter information.

The text message sent by the voter must contain his or her voter ID number and the numerical voting code for the candidate or candidates, for whom he or she wishes to vote.

The text message sent by the voter will need to be structured in accordance with the instructions on how to vote contained in the voter information, otherwise the vote will not be cast.

Procedure for receipt of envelopes, internet votes, telephone votes and text message votes

Receipt of voting documents

Where the returning officer receives a

(a) covering envelope, or
(b) any other envelope containing an ID declaration of identity form 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 3337 and 3438 are to apply.

37.2 (2) The returning officer may open any covering envelope or any ballot paper envelope for the purposes of rules 3337 and 3438, 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.

37.3 (3) The returning officer must make arrangements to ensure the safety and security of the ballot papers and other documents.

38. Validity of ballot paper – (1) votes

38.1 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 an ID declaration form if required that has been correctly completed, signed and dated.

38.2 Where the returning officer is satisfied that rule 37.1 has been fulfilled, he or she is to:

(a) put the ID declaration form if required in a separate packet; and

(b) put the ballot paper aside for counting after the close of the poll.

38.3 Where the returning officer is not satisfied that rule 37.1 has been fulfilled, he or she is to:

(a) mark the ballot paper "disqualified";

(b) if there is an ID declaration form accompanying the ballot paper, mark it "disqualified" and attach it to the ballot paper;

(c) record the unique identifier on the ballot paper in a list of disqualified documents (the "list of disqualified documents"); and

(d) place the document or documents in a separate packet.

38.4 An internet, telephone or text message vote shall not be taken to be duly returned unless the returning officer is satisfied that the internet voting record, telephone voting record or text voting record (as applicable) 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.
(2) Where the returning officer is satisfied that paragraph (1) rule 37.4 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, Internet voting record, telephone voting record or text voting record (as applicable) aside for counting after the close of the poll.

(3) Where the returning officer is not satisfied that paragraph (1) rule 37.4 has been fulfilled, he or she is to –

(a) mark the ballot paper “Internet voting record, telephone voting record or text voting record (as applicable) ” 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 voter ID number on the ballot paper in a list (the “Internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents”); and

(d) place the document or documents in a separate packet.

39. Declaration of identity but no ballot paper (public and service user/ carers’ constituency) –

39.1. Where the returning officer receives an ID declaration of identity form if required but no ballot paper, the returning officer is to –

(a) mark the ID declaration of identity “form “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 ID declaration form in a separate packet.

40. De-duplication of identity votes

40.1. Where different methods of polling are being used in an election, the returning officer shall examine all votes cast to ascertain if a voter ID number has been used more than once to cast a vote in the election.

40.2. If the returning officer ascertains that a voter ID number has been used more than once to cast a vote in the election he or she shall:

(a) only accept as duly returned the first vote received that was cast using the relevant voter ID number, and
(b) mark as "disqualified" all other votes that were cast using the relevant voter ID number.

40.3. Where a ballot paper is disqualified under this rule the returning officer shall:

(a) mark the ballot paper "disqualified";
(b) if there is an ID declaration form accompanying the ballot paper, mark it "disqualified" and attach it to the ballot paper;
(c) record the unique identifier and the voter ID number on the ballot paper in the list of disqualified documents;
(d) place the document or documents in a separate packet; and
(e) disregard the ballot paper when counting the votes in accordance with these rules.

40.4. Where an internet voting record, telephone voting record or text voting record is disqualified under this rule the returning officer shall:

(a) mark the internet voting record, telephone voting record or text voting record (as applicable) "disqualified";
(b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents;
(c) place the internet voting record, telephone voting record or text voting record (as applicable) in a separate packet; and
(d) disregard the internet voting record, telephone voting record or text voting record (as applicable) when counting the votes in accordance with these rules.

41. Sealing of packets

41.1. As soon as is possible after the close of the poll and after the completion of the procedure under rules 3337 and 3438, 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/ID declaration forms, if required;
(c) the list of spoilt ballot papers, and the list of spoilt text message votes;
(d) the list of lost ballot papers, documents;
(e) the list of eligible voters; and
(f) the list of tendered ballot papers, voting information.

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and ensure that complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 are held in a device suitable for the purpose of storage.

PART 6 COUNTING THE VOTES

42. Interpretation of Part 6—

42.1. In Part 6 of these rules—:

"ballot document" means a ballot paper, internet voting record, telephone voting record or text voting record;

"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—document:

(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 44(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 41 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 vote” means a ballot 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 on which a second or subsequent preference is recorded for the candidate to whom that ballot has been transferred; and

“transfer value” means the value of a transferred vote calculated in accordance with paragraph (rules 47.4) or (47.7) of rule 42 below.

43. Arrangements for counting of the votes

43.1. The returning officer is to make arrangements for counting the votes as soon as is practicable after the close of the poll.
43. The returning officer may make arrangements for any votes to be counted using vote counting software where:

(a) the board of directors and the council of governors of the corporation have approved:
   (i) the use of such software for the purpose of counting votes in the relevant election; and
   (ii) a policy governing the use of such software; and
(b) the corporation and the returning officer are satisfied that the use of such software will produce an accurate result.

44. The count

44.1. The returning officer is to:

(a) count and record the number of:
   (iii) ballot papers that have been returned; and
   (iv) the number of internet voting records, telephone voting records and/or text voting records that have been created; and

(b) count the votes according to the provisions in this Part of the rules.

44.2. The returning officer, while counting and recording the number of ballot papers, internet voting records, telephone voting records and/or text voting records 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 or the voter ID number on an internet voting record, telephone voting record or text voting record.

44.3. The returning officer is to proceed continuously with counting the votes as far as is practicable.

45. Rejected ballot papers and rejected text voting records

45.1. 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.

45.2. (2) The returning officer is to endorse the word "rejected" on any ballot paper which under this rule is not to be counted.

45.3. (3) Any text voting record:

(a) on which the figure "1" standing alone is not placed so as to indicate a first preference for any candidate;

(b) on which anything is written or marked by which the voter can be identified except the unique identifier; or

(c) which is unmarked or rejected because of uncertainty;

shall be rejected and not counted, but the text voting record 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.

45.4. The returning officer is to endorse the word "rejected" on any text voting record which under this rule is not to be counted.

45.5. 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 44.1 and the number of text voting records rejected by him or her under each of the sub-paragraphs (a) to (c) of rule 44.3.

46. (1) First stage

46.1. The returning officer is to sort the ballot papers into parcels according to the candidates for whom the first preference votes are given.

46.2. (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.

46.3. (3) The returning officer is to also ascertain and record the number of valid ballot papers.

47. (4) The quota
47.1. 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.

47.2. 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").

47.3. 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 (rules 47.1) to (47.3) of rule 44 has been complied with.

48. Transfer of votes

48.1. 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.

48.2. The returning officer is to count the number of ballot papers in each parcel referred to in paragraph (rule 47.1) above.

48.3. The returning officer is, in accordance with this rule and rule 43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (rule 47.1) (a) to the candidate for whom the next available preference is given on those papers.

48.4. The vote on each ballot 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).
48.5. 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;

(b) where no such preference is given, as the sub-parcel of non-transferable votes.

48.6. The returning officer is, in accordance with this rule and rule 43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (rule 47.5)(a) to the candidate for whom the next available preference is given on those papers.

48.7. The vote on each ballot transferred under paragraph (rule 47.6) shall be at—

(a) a transfer value calculated as set out in paragraph (rule 47.4) 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.

48.8. Each transfer of a surplus constitutes a stage in the count.

48.9. Subject to paragraph (rule 47.10), 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.

48.10. 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.
48.11. (11) This rule does not apply at an election where there is only one vacancy.

49. 43. Supplementary provisions on transfer—(1)

49.1. If, at any stage of the count, two or more candidates have surpluses, the transferable papersballot documents 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 papersballot documents 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 papersballot documents of the candidate on whom the lot falls shall be transferred first.

49.2. (2) The returning officer shall, on each transfer of transferable papersballot documents under rule 49.1 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.

49.3. (3) All ballot papersdocuments transferred under rule 42 or 44 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 papersballot document or, as the case may be, all the papersballot documents in that sub-parcel.
49.4. Where a ballot paper/document is so marked that it is unclear to the
returning officer at any stage of the count under rule 42 or 44 for which
candidate the next preference is recorded, the returning officer shall treat
any vote on that ballot paper/document as a non-transferable non-transferable
vote; and votes on a ballot paper/document 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.

50. Exclusion of candidates—(1)

50.1. If:

(a) all transferable papers/document which under the
provisions of rule 42 above47 (including that rule as applied by
paragraph (11) below rule 49) and this rule are required to be
transferred, have been transferred; and

(b) subject to rule 45 below50, 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 rule
49.12 applies, the candidates with the then lowest votes).

50.2. The returning officer shall sort all the ballot papers/documents 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/documents on which a next available preference
is given; and

(b) ballot papers/documents on which no such preference is given
thereby including ballot papers/documents on which preferences are
given only for candidates who are deemed to be elected or are
excluded.

50.3. The returning officer shall, in accordance with this rule and rule 43
above48, transfer each sub-parcel of ballot papers/document referred to in
paragraph (2)(a) above rule 49.2 to the candidate for whom the next
available preference is given on those papers/document.

50.4. The exclusion of a candidate, or of two or more candidates together,
constitutes a further stage of the count.
50.5. If, subject to rule 45 below, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable papers or ballot documents, if any, which had been transferred to any candidate excluded under paragraph (rule 49.1) above into sub-parcels according to their transfer value.

50.6. The returning officer shall transfer those papers or ballot documents in the sub-parcel of transferable papers or ballot documents with the highest transfer value to the continuing candidates in accordance with the next available preferences given on those papers or ballot documents (thereby passing over candidates who are deemed to be elected or are excluded).

50.7. The vote on each transferable paper or ballot document transferred under paragraph (rule 49.6) above shall be at the value at which that vote was received by the candidate excluded under paragraph (rule 49.1) above.

50.8. Any papers or ballot documents on which no next available preferences have been expressed shall be set aside as non-transferable votes.

50.9. After the returning officer has completed the transfer of the ballot papers or documents in the sub-parcel of ballot papers or documents with the highest transfer value he or she shall proceed to transfer in the same way the sub-parcel of ballot papers or documents with the next highest value and so on until he has dealt with each sub-parcel of a candidate excluded under paragraph (1) above, rule 49.1.

50.10. 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
50.11. (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 (rules 47.5) to (47.10) of rule 42 and rule 4348.

50.12. (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.

50.13. (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.

51. 45. Filling of last vacancies – (1)

51.1. 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.

51.2. (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.

51.3. (3) Where the last vacancies can be filled under this rule, no further transfer of votes shall be made.

52. 46. Order of election of candidates – (1)

52.1. 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 42(47.10) above.

52.2. (2) A candidate credited with a number of votes equal to, and not greater than the recorded total of valid first preference votes.
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 or she obtained the quota.

52.3. (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.

52.4. (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.

PART 7 FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

53. 47. Declaration of result for contested elections – (1)

53.1. 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 Oxleas NHS Trust by section 433(4) of the 2003 Act, to the chair of the NHS Trust;

(ii) in any other case, to the chair of the corporation;

(c) give public notice of the name of each candidate who he or she has declared elected.

53.2. (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;

(e) the number of rejected ballot papers under each of the headings in rule 39(44.1);

(f) the number of rejected text voting records under each of the headings in rule 44.3; available on request.

54. Declaration of result for uncontested elections

54.1. 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 chair 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

PART 8 49. DISPOSAL OF DOCUMENTS

55. Sealing up of documents relating to the poll—(1)

55.1. 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, internet voting records, telephone voting records and text voting records;

(b) the ballot papers and text voting records endorsed with "rejected in part";

(c) the rejected ballot papers, and text voting records; and

(d) the statement of rejected ballot papers, and the statement of rejected text voting records;
(2) and ensure that complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 are held in a device suitable for the purpose of storage.

55.2 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, and the list of spoilt text message votes;

(d) the list of lost ballot papers, documents; and

(e) the list of eligible voters, and;

(f) the list of tendered ballot papers.

3 or access the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage.

55.3 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.

56. Delivery of documents

56.1 Once the documents relating to the poll have been sealed up and endorsed pursuant to rule 4956, the returning officer is to forward them to the chair of the corporation.

57. Forwarding of documents received after close of the poll

57.1 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

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any applications for replacement ballot papers voting information are made too late to enable new ballot papers voting information to be issued; the returning officer is to put them in a separate packet, seal it up, and endorse and forward it to the chair of the corporation.

58. 52. Retention and public inspection of documents

58.1. 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 board of directors of the corporation, cause them to be destroyed.

58.2. With the exception of the documents listed in rule 53(58.1), 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.

58.3. 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.

59. 53. Application for inspection of certain documents relating to an election

59.1. The corporation may not allow:

(a) the inspection of, or the opening of any sealed packet containing—

(i) any rejected ballot papers, including ballot papers rejected in part;

(ii) any rejected text voting records, including text voting records rejected in part;

(iii) any disqualified documents, or the list of disqualified documents;

(c) any counted ballot papers,

(d) any declarations of identity, internet voting records, telephone voting records or text voting records;

(e) the list of eligible voters; or

(b) access to or the inspection of the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage.
by any person without the consent of the Regulator board of directors of the
corporation.

59.2. (2) A person may apply to the Regulator board of directors of the
corporation to inspect any of the documents listed in rule 58.1, and the
Regulator board of directors of the corporation 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.

59.3. (3) The Regulator board of directors of the corporation’s consent may be
on any terms or conditions that it thinks necessary, including conditions as to

(a) persons;
(b) time;
(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.

59.4. (4) On an application to inspect any of the documents listed in paragraph
rule 58.1, the board of directors of the corporation must:

(a) in giving its consent, the regulator, and
(b) 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 Monitor has declared that the vote was invalid.

PART 9 DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

Part 9—Death of a candidate during a contested election

60. (1) Countermand or abandonment of poll on death of candidate—
60.1. 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.

60.2. (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(54.1)(a).

Part 10 — Election expenses and publicity

PART 10 ELECTION EXPENSES AND PUBLICITY

61. Election expenses

61.1. 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 made to the regulator under Part 11 of these rules.

62. Expenses and payments by candidates—

62.1. 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;

(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.
63. Election expenses incurred by other persons

63.1. 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.

63.2. Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 56 and 57.

Publicity

64. Publicity about election by the corporation

64.1. 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.

64.2. Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 56, 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.
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.

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.

The information must consist of:

(a) a statement submitted by the candidate of no more than 100 words;

(b) if voting by telephone or text message is a method of polling for the election, the numerical voting code allocated by the returning officer to each candidate, for the purpose of recording votes using the telephone voting facility or the text message voting facility ("numerical voting code"); and

(c) a photograph of the candidate, if submitted by candidate.

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.

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.

An application alleging a breach of these rules, including an electoral.
irregularity under Part 10, may be made to the Regulator Monitor.

67.2. (2) An application may only be made once the outcome of the election has been declared by the returning officer.

67.3. (3) An application may only be made to the Regulator Monitor 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.

67.4. (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 Monitor may require.

67.5. (5) The application must be presented in writing within 21 days of the declaration of the result of the election.

67.6. (6) If the Regulator Monitor requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.

67.7. The Regulator Monitor shall delegate the determination of an application to a person or panel of persons to be nominated for the purpose of the Regulator.

67.8. The determination by the person or panel of persons nominated in accordance with Rule 64 (rule 66.7) 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.

67.9. The Regulator Monitor may prescribe rules of procedure for the determination of an application including costs.

PART 12 MISCELLANEOUS

68. Secrecy (1)
68.1. The following persons—:

(a) the returning officer; and
(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—

(b) (i) 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 voting information or who has or has not voted;

(ii) the unique identifier on any ballot paper;

(iii) the voter ID number allocated to any voter;

(iv) the candidate(s) for whom any member has voted.

68.2. (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, or the voter ID number allocated to a voter.

68.3. (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.

69. Prohibition of disclosure of vote—

69.1. 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.

70. Disqualification—

70.1. 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; or
(b) an employee of the corporation.
Delay in postal service through industrial action or unforeseen event –

If industrial action, or some other unforeseen event, results in a delay in:

- the delivery of the documents in rule 24;
- 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, by such period as he or she considers appropriate.
Model Election Rules – First Past the Post

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Part 1: Interpretation

2. Interpretation

1.1. In these rules, unless the context otherwise requires:

"2006 Act" means the National Health Service Act 2006;

"corporation" means the public benefit corporation subject to this constitution;

"council of governors" means the council of governors of the corporation;

"declaration of identity" has the meaning set out in rule 21.1;

"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;

"e-voting" means voting using either the internet, telephone or text message;

"e-voting information" has the meaning set out in rule 24.2;

"ID declaration form" has the meaning set out in Rule 21.1; "internet voting record" has the meaning set out in rule 26.4(d);

"internet voting system" means such computer hardware and software, data other equipment and services as may be provided by the returning officer for the purpose of enabling voters to cast their votes using the internet;

"lead governor" means the governor nominated by the corporation to fulfil the role described in Appendix B to The NHS Foundation Trust Code of Governance (Monitor, December 2013) or any later version of such code;

"list of eligible voters" means the list referred to in rule 22.1, containing the information in rule 22.2;

"method of polling" means a method of casting a vote in a poll, which may be by post, internet, text message or telephone;

"Monitor" means the corporate body known as Monitor as provided by section 61 of the 2012 Act;

"numerical voting code" has the meaning set out in rule 64.2(b);
“polling website” has the meaning set out in rule 26.1;
“postal voting information” has the meaning set out in rule 24.1;
“telephone short code” means a short telephone number used for the purposes of submitting a vote by text message;
“telephone voting facility” has the meaning set out in rule 26.2;
“telephone voting record” has the meaning set out in rule 26.5 (d);
“text message voting facility” has the meaning set out in rule 26.3;
“text voting record” has the meaning set out in rule 26.6 (d);
“the telephone voting system” means such telephone voting facility as may be provided by the returning officer for the purpose of enabling voters to cast their votes by telephone;
“the text message voting system” means such text messaging voting facility as may be provided by the returning officer for the purpose of enabling voters to cast their votes by text message;
“voter ID number” means a unique, randomly generated numeric identifier allocated to each voter by the Returning Officer for the purpose of e-voting; and
“voting information” means postal voting information and/or e-voting information.

1.2. Other expressions used in these rules and in Schedule 7 to the NHS Act 2006 have the same meaning in these rules as in that Schedule.

Part 2: Timetable for elections

3. Timetable

3.1. The proceedings at an election shall be conducted in accordance with the following timetable:

<table>
<thead>
<tr>
<th>Proceeding</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication of notice of election</td>
<td>Not later than the fortieth day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Final day for delivery of nomination forms to returning officer</td>
<td>Not later than the twenty eighth day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Publication of statement of nominated candidates</td>
<td>Not later than the twenty seventh day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Final day for delivery of notices of withdrawals by candidates from election</td>
<td>Not later than twenty fifth day before the day of the close of the poll.</td>
</tr>
</tbody>
</table>
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.

4. Computation of time

4.1. 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.

4.2. 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

5. Returning Officer

5.1. Subject to rule 69, the returning officer for an election is to be appointed by the corporation.

5.2. Where two or more elections are to be held concurrently, the same returning officer may be appointed for all those elections.

6. Staff

6.1. Subject to rule 69, 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.

7. Expenditure

7.1. 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.

8. Duty of co-operation

8.1. 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

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9. **Notice of election**

9.1. 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 forms may be obtained;

(e) the address for return of nomination forms (including, where the return of nomination forms in an electronic format will be permitted, the e-mail address for such return) 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.

(h) the date and time of the close of the poll in the event of a contest.

10. **Nomination of candidates**

10.1. Subject to rule 9.2, each candidate must nominate themselves on a single nomination form.

10.2. The returning officer:

(a) is to supply any member of the corporation with a nomination form, and

(b) is to prepare a nomination form 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 and a nomination can, subject to rule 13, be in an electronic format.

11. **Candidate's particulars**

11.1. The nomination form must state the candidate’s:

(a) full name.

(b) contact address in full (which should be a postal address although an e-mail address may also be provided for the purposes of electronic communication), and
12. **Declaration of interests**

12.1. The nomination form 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,

(c) and if the candidate has no such interests, the paper must include a statement to that effect.

13. **Declaration of eligibility**

13.1. The nomination form 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 7 of the 2006 Act or by any provision of the constitution; and,

(b) for a member of the public or service-user/carers’ 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.

14. **Signature of candidate**

14.1. The nomination form must be signed and dated by the candidate, in a manner prescribed by the returning officer, 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.

14.2. Where the return of nomination forms in an electronic format is permitted, the returning officer shall specify the particular signature formalities (if any) that will need to be complied with by the candidate.

15. **Decisions as to the validity of nomination**

15.1. Where a nomination form 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 form is invalid.
15.2. The returning officer is entitled to decide that a nomination form 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 forms, 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, if required by rule 13.

15.3. The returning officer is to examine each nomination form as soon as is practicable after he or she has received it, and decide whether the candidate has been validly nominated.

15.4. Where the returning officer decides that a nomination is invalid, the returning officer must endorse this on the nomination form, stating the reasons for their decision.

15.5. 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 form. If an e-mail address has been given in the candidate’s nomination form (in addition to the candidate’s postal address), the returning officer may send notice of the decision to that address.

16. Publication of statement of candidates

16.1. The returning officer is to prepare and publish a statement showing the candidates who are standing for election.

16.2. The statement must show:

(a) the name, contact address (which shall be the candidate’s postal 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 form.

16.3. The statement must list the candidates standing for election in alphabetical
16.4. The returning officer must send a copy of the statement of candidates and copies of the nomination forms to the corporation as soon as is practicable after publishing the statement.

17. Inspection of statement of nominated candidates and nomination forms

17.1. The corporation is to make the statement of the candidates and the nomination forms supplied by the returning officer under rule 15.4 available for inspection by members of the corporation free of charge at all reasonable times.

17.2. If a member of the corporation requests a copy or extract of the statement of candidates or their nomination forms, the corporation is to provide that member with the copy or extract free of charge.

18. Withdrawal of candidates

18.1. 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.

19. Method of election

19.1. 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.

19.2. 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.

19.3. 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 the 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

20. Poll to be taken by ballot

20.1. The votes at the poll must be given by secret ballot.

20.2. The votes are to be counted and the result of the poll determined in accordance with Part 6 of these rules.
20.3. The corporation may decide that voters within a constituency or class within a constituency, may, subject to rule 19.4, cast their votes at the poll using such different methods of polling in any combination as the corporation may determine.

20.4. The corporation may decide that voters within a constituency or class within a constituency for whom an e-mail address is included in the list of eligible voters may only cast their votes at the poll using an e-voting method of polling.

20.5. Before the corporation decides, in accordance with rule 19.3 that one or more e-voting methods of polling will be made available for the purposes of the poll, the corporation must satisfy itself that:

(a) if internet voting is to be a method of polling, the internet voting system to be used for the purpose of the election is:
   (i) configured in accordance with these rules; and
   (ii) will create an accurate internet voting record in respect of any voter who casts his or her vote using the internet voting system;

(b) if telephone voting to be a method of polling, the telephone voting system to be used for the purpose of the election is:
   (i) configured in accordance with these rules; and
   (ii) will create an accurate telephone voting record in respect of any voter who casts his or her vote using the telephone voting system;

(c) if text message voting is to be a method of polling, the text message voting system to be used for the purpose of the election is:
   (i) configured in accordance with these rules; and
   (ii) will create an accurate text voting record in respect of any voter who casts his or her vote using the text message voting system.

21. The ballot paper

21.1. The ballot of each voter (other than a voter who casts his or her ballot by an e-voting method of polling) 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.

21.2. 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 by all available methods of polling, including the relevant voter’s voter ID number if one or more e-voting methods of polling are available.

(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.

21.3. Each ballot paper must have a unique identifier.

21.4. Each ballot paper must have features incorporated into it to prevent it from being reproduced.

22. The declaration of identity (public and service-user/carers’ constituencies)

22.1. The corporation shall require each voter who participates in an election for a public or service-user/carers’ constituency to make a declaration confirming:

(a) that the voter is the person:

   (i) to whom the ballot paper was addressed, and/or

   (ii) to whom the voter ID number contained within the e-voting information was allocated,

(b) that he or she has not marked or returned any other voting information in the election, and

(c) the particulars of his or her qualification to vote as a member of the constituency or class within the constituency for which the election is being held,

(“declaration of identity”)

and the corporation shall make such arrangements as it considers appropriate to facilitate the making and the return of a declaration of identity by each voter, whether by the completion of a paper form (“ID declaration form”) or the use of an electronic method.

(a) The voter must be required to return his or her declaration of identity with his or her ballot.

(b) The voting information shall caution the voter that if the declaration of identity is not duly returned or is returned without having been made correctly, any vote cast by the voter may be declared invalid.

Action to be taken before the poll
23. **List of eligible voters**

23.1. 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 27 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.

23.2. The list is to include, for each member:

(a) a postal address; and,

(b) the member's e-mail address, if this has been provided to which his or her voting information may, subject to rule 22.3, be sent.

23.3. The corporation may decide that the e-voting information is to be sent only by e-mail to those members in the list of eligible voters for whom an e-mail address is included in that list.

24. **Notice of poll**

24.1. 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 methods of polling by which votes may be cast at the election by voters in a constituency or class within a constituency, as determined by the corporation in accordance with rule 19.3,

(g) the address for return of the ballot papers,

(h) the uniform resource locator (url) where, if internet voting is a method of polling, the polling website is located,

(i) the telephone number where, if telephone voting is a method of polling, the telephone voting facility is located,

(j) the telephone number or telephone short code where, if text message voting is a method of polling, the text message voting facility is located,

(k) the date and time of the close of the poll.
(l) the address and final dates for applications for replacement voting information, and

(m) the contact details of the returning officer.

25. **Issue of voting information by returning officer**

25.1 Subject to rule 24.3, 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 information by post to each member of the corporation named in the list of eligible voters:

(a) a ballot paper and ballot paper envelope,

(b) the ID declaration form (if required),

(c) information about each candidate standing for election, pursuant to rule 64 of these rules, and

(d) a covering envelope;

("postal voting information").

25.2 Subject to rules 24.3 and 24.4, 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 information by e-mail and/or by post to each member of the corporation named in the list of eligible voters whom the corporation determines in accordance with rule 19.3 and/or rule 19.4 may cast his or her vote by an e-voting method of polling:

(a) instructions on how to vote and how to make a declaration of identity (if required),

(b) the voter’s voter ID number,

(c) information about each candidate standing for election, pursuant to rule 64 of these rules, or details of where this information is readily available on the internet or available in such other formats as the

(d) Returning Officer thinks appropriate, and

(e) contact details of the returning officer.

("e-voting information").

25.3 The corporation may determine that any member of the corporation shall:

(a) only be sent postal voting information; or

(b) only be sent e-voting information; or

(c) be sent both postal voting information and e-voting information;

for the purposes of the poll.
25.4. If the corporation determines, in accordance with rule 22.3, that the e-voting information is to be sent only by e-mail to those members in the list of eligible voters for whom an e-mail address is included in that list, then the returning officer shall only send that information by e-mail.

25.5. The voting information is to be sent to the postal address and/ or e-mail address for each member, as specified in the list of eligible voters.

26. Ballot paper envelope and covering envelope

26.1. 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.

26.2. 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.

26.3. 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 ID declaration form if required, and
   (b) the ballot paper envelope, with the ballot paper sealed inside it.

27. E-voting systems

27.1. If internet voting is a method of polling for the relevant election then the returning officer must provide a website for the purpose of voting over the internet (in these rules referred to as "the polling website").

27.2. If telephone voting is a method of polling for the relevant election then the returning officer must provide an automated telephone system for the purpose of voting by the use of a touch-tone telephone (in these rules referred to as "the telephone voting facility").

27.3. If text message voting is a method of polling for the relevant election then the returning officer must provide an automated text messaging system for the purpose of voting by text message (in these rules referred to as "the text message voting facility").

27.4. The returning officer shall ensure that the polling website and internet voting system provided will:
   (a) require a voter to:
      (i) enter his or her voter ID number; and
      (ii) where the election is for a public or service-user/carers' constituency, make a declaration of identity; in order to be able to cast his or her vote:
(b) specify:

(iii) the name of the corporation,

(iv) the constituency, or class within a constituency, for which the election is being held,

(v) the number of members of the council of governors to be elected from that constituency, or class within that constituency,

(vi) 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,

(vii) instructions on how to vote and how to make a declaration of identity,

(viii) the date and time of the close of the poll, and

(ix) the contact details of the returning officer;

(c) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(d) create a record ("internet voting record") that is stored in the internet voting system in respect of each vote cast by a voter using the internet that comprises of:

(i) the voter’s voter ID number;

(ii) the voter’s declaration of identity (where required);

(iii) the candidate or candidates for whom the voter has voted; and

(iv) the date and time of the voter’s vote,

(e) if the voter’s vote has been duly cast and recorded, provide the voter with confirmation of this; and

(f) prevent any voter from voting after the close of poll.

27.5. The returning officer shall ensure that the telephone voting facility and telephone voting system provided will:

(a) require a voter to

(i) enter his or her voter ID number in order to be able to cast his or her vote; and

(ii) where the election is for a public or service-user/carers’ constituency, make a declaration of identity;

(b) specify:

(i) the name of the corporation.
(ii) the constituency, or class within a constituency, for which the election is being held,

(iii) the number of members of the council of governors to be elected from that constituency, or class within that constituency,

(iv) instructions on how to vote and how to make a declaration of identity,

(v) the date and time of the close of the poll, and

(vi) the contact details of the returning officer;

(c) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(d) create a record ("telephone voting record") that is stored in the telephone voting system in respect of each vote cast by a voter using the telephone that comprises of:

(i) the voter’s voter ID number;

(ii) the voter’s declaration of identity (where required);

(iii) the candidate or candidates for whom the voter has voted; and

(iv) the date and time of the voter’s vote

(a) if the voter’s vote has been duly cast and recorded, provide the voter with confirmation of this;

(b) prevent any voter from voting after the close of poll.

27.6. The returning officer shall ensure that the text message voting facility and text messaging voting system provided will:

(a) require a voter to:

   (i) provide his or her voter ID number; and

   (ii) where the election is for a public or service-user/carers’ constituency, make a declaration of identity;

   in order to be able to cast his or her vote;

(b) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(c) create a record ("text voting record") that is stored in the text messaging voting system in respect of each vote cast by a voter by text message that comprises of:

   (i) the voter’s voter ID number;
The poll

28. Eligibility to vote

28.1. 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.

29. Voting by persons who require assistance

29.1. The returning officer is to put in place arrangements to enable requests for assistance to vote to be made.

29.2. 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.

30. Spoilt ballot papers and spoilt text message votes

30.1. 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 as a “spoilt ballot paper”), that voter may apply to the returning officer for a replacement ballot paper.

30.2. 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.

30.3. 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 completed ID declaration form, if required, has not been returned.

30.4. 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.

30.5. If a voter has dealt with his or her text message vote in such a manner that it
cannot be accepted as a vote (referred to as a "spoil text message vote"), that voter may apply to the returning officer for a replacement voter ID number.

30.6. On receiving an application, the returning officer is to obtain the details of the voter ID number on the spoil text message vote, if he or she can obtain it.

30.7. The returning officer may not issue a replacement voter ID number in respect of a spoil text message vote unless he or she is satisfied as to the voter’s identity.

30.8. After issuing a replacement voter ID number in respect of a spoil text message vote, the returning officer shall enter in a list ("the list of spoil text message votes"): (a) the name of the voter, and (b) the details of the voter ID number on the spoil text message vote (if that officer was able to obtain it), and (c) the details of the replacement voter ID number issued to the voter.

31. Lost voting information

31.1. Where a voter has not received his or her voting information by the tenth day before the close of the poll, that voter may apply to the returning officer for replacement voting information.

31.2. The returning officer may not issue replacement voting information in respect of lost voting information 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 voting information, (c) has ensured that no declaration of identity, if required, has been returned.

31.3. After issuing replacement voting information in respect of lost voting information, the returning officer shall enter in a list ("the list of lost ballot documents"): (a) the name of the voter (b) the details of the unique identifier of the replacement ballot paper, if applicable, and (c) the voter ID number of the voter.

32. Issue of replacement voting information

32.1. If a person applies for replacement voting information under rule 29 or 30 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 replacement voting
information unless, in addition to the requirements imposed by rule 29.3 or 30.2, 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.

32.2. After issuing replacement voting information under this rule, the returning officer shall enter in a list ("the list of tendered voting information"):

(a) the name of the voter,

(b) the unique identifier of any replacement ballot paper issued under this rule;

(c) the voter ID number of the voter.

33. ID declaration form for replacement ballot papers (public and service-user/carers' constituencies)

33.1. In respect of an election for a public or service-user/carers' constituency an ID declaration form must be issued with each replacement ballot paper requiring the voter to make a declaration of identity.

Polling by internet, telephone or text

34. Procedure for remote voting by internet

34.1. To cast his or her vote using the internet, a voter will need to gain access to the polling website by keying in the url of the polling website provided in the voting information.

34.2. When prompted to do so, the voter will need to enter his or her voter ID number.

34.3. If the internet voting system authenticates the voter ID number, the system will give the voter access to the polling website for the election in which the voter is eligible to vote.

34.4. To cast his or her vote, the voter will need to key in a mark on the screen opposite the particulars of the candidate or candidates for whom he or she wishes to cast his or her vote.

34.5. The voter will not be able to access the internet voting system for an election once his or her vote at that election has been cast.

35. Voting procedure for remote voting by telephone

35.1. To cast his or her vote by telephone, the voter will need to gain access to the telephone voting facility by calling the designated telephone number provided in the voter information using a telephone with a touch-tone keypad.

35.2. When prompted to do so, the voter will need to enter his or her voter ID number using the keypad.

35.3. If the telephone voting facility authenticates the voter ID number, the voter will be prompted to vote in the election.
35.4. When prompted to do so the voter may then cast his or her vote by keying in the numerical voting code of the candidate or candidates, for whom he or she wishes to vote.

35.5. The voter will not be able to access the telephone voting facility for an election once his or her vote at that election has been cast.

36. Voting procedure for remote voting by text message

36.1. To cast his or her vote by text message the voter will need to gain access to the text message voting facility by sending a text message to the designated telephone number or telephone short code provided in the voter information.

36.2. The text message sent by the voter must contain his or her voter ID number and the numerical voting code for the candidate or candidates, for whom he or she wishes to vote.

36.3. The text message sent by the voter will need to be structured in accordance with the instructions on how to vote contained in the voter information, otherwise the vote will not be cast.

Procedure for receipt of envelopes, internet votes, telephone votes and text message votes

37. Receipt of voting documents

37.1. Where the returning officer receives:

(a) a covering envelope, or

(b) any other envelope containing an ID declaration form 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 37 and 38 are to apply.

37.2. The returning officer may open any covering envelope or any ballot paper envelope for the purposes of rules 37 and 38, 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.

37.3. The returning officer must make arrangements to ensure the safety and security of the ballot papers and other documents.

38. Validity of votes

38.1. 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 an ID declaration form if required that has been correctly completed, signed and dated.

38.2. Where the returning officer is satisfied that rule 37.1 has been fulfilled, he or she is to:
(a) put the ID declaration form if required in a separate packet, and
(b) put the ballot paper aside for counting after the close of the poll.

38.3. Where the returning officer is not satisfied that rule 37.1 has been fulfilled, he or she is to:
(a) mark the ballot paper “disqualified”,
(b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,
(c) record the unique identifier on the ballot paper in a list of disqualified documents (the “list of disqualified documents”); and
(d) place the document or documents in a separate packet.

38.4. An internet, telephone or text message vote shall not be taken to be duly returned unless the returning officer is satisfied that the internet voting record, telephone voting record or text voting record (as applicable) has been received by the returning officer before the close of the poll, with a declaration of identity if required that has been correctly made.

38.5. Where the returning officer is satisfied that rule 37.4 has been fulfilled, he or she is to put the internet voting record, telephone voting record or text voting record (as applicable) aside for counting after the close of the poll.

38.6. Where the returning officer is not satisfied that rule 37.4 has been fulfilled, he or she is to:
(a) mark the internet voting record, telephone voting record or text voting record (as applicable) “disqualified”,
(b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents; and
(c) place the document or documents in a separate packet.

39. Declaration of identity but no ballot paper (public and service-user/carers’ constituency)

39.1. Where the returning officer receives an ID declaration form if required but no ballot paper, the returning officer is to:
(a) mark the ID declaration form “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 ID declaration form in a separate packet.
De-duplication of votes

40.1 Where different methods of polling are being used in an election, the returning officer shall examine all votes cast to ascertain if a voter ID number has been used more than once to cast a vote in the election.

40.2 If the returning officer ascertains that a voter ID number has been used more than once to cast a vote in the election he or she shall:

(a) only accept as duly returned the first vote received that was cast using the relevant voter ID number; and

(b) mark as "disqualified" all other votes that were cast using the relevant voter ID number.

40.3 Where a ballot paper is disqualified under this rule the returning officer shall:

(a) mark the ballot paper "disqualified",

(b) if there is an ID declaration form accompanying the ballot paper, mark it "disqualified" and attach it to the ballot paper,

(c) record the unique identifier and the voter ID number on the ballot paper in the list of disqualified documents;

(d) place the document or documents in a separate packet; and

(e) disregard the ballot paper when counting the votes in accordance with these rules.

40.4 Where an internet voting record, telephone voting record or text voting record is disqualified under this rule the returning officer shall:

(a) mark the internet voting record, telephone voting record or text voting record (as applicable) "disqualified",

(b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents;

(c) place the internet voting record, telephone voting record or text voting record (as applicable) in a separate packet, and

(d) disregard the internet voting record, telephone voting record or text voting record (as applicable) when counting the votes in accordance with these rules.

Sealing of packets

41. As soon as is possible after the close of the poll and after the completion of the procedure under rules 37 and 38, the returning officer is to seal the packets containing:

(a) the disqualified documents, together with the list of disqualified documents inside it.
(b) the ID declaration forms, if required,
(c) the list of spoilt ballot papers and the list of spoilt text message votes,
(d) the list of lost ballot documents,
(e) the list of eligible voters, and
(f) the list of tendered voting information

and ensure that complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 are held in a device suitable for the purpose of storage.

Part 6: COUNTING THE VOTES

42. Not used

43. Arrangements for counting of the votes

43.1. The returning officer is to make arrangements for counting the votes as soon as is practicable after the close of the poll.

43.2. The returning officer may make arrangements for any votes to be counted using vote counting software where:

(a) the board of directors and the council of governors of the corporation have approved:

   (i) the use of such software for the purpose of counting votes in the relevant election, and

   (ii) a policy governing the use of such software, and

(b) the corporation and the returning officer are satisfied that the use of such software will produce an accurate result.

44. The count

44.1. The returning officer is to:

(a) count and record the number of:

   (i) ballot papers that have been returned; and

   (ii) the number of internet voting records, telephone voting records and/or text voting records that have been created, and

(b) count the votes according to the provisions in this Part of the rules and/or the provisions of any policy approved pursuant to rule 42.2(a)(ii) where vote counting software is being used.

44.2. The returning officer, while counting and recording the number of ballot papers, internet voting records, telephone voting records and/or text voting records 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 or the voter ID number on an internet voting record, telephone voting record or text voting record.

44.3. The returning officer is to proceed continuously with counting the votes as far as is practicable.

45. Rejected ballot papers and rejected text voting records

45.1. 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 rules 44.2 and 44.3, be rejected and not counted.

45.2. 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.

45.3. 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.

45.4. 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 rules 44.2 and 44.3, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

45.5. 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.

45.6. Any text voting record:

(a) on which votes are given for more candidates than the voter is entitled to vote,
(b) on which anything is written or marked by which the voter can be identified except the voter ID number, or
(c) which is unmarked or rejected because of uncertainty,

shall, subject to rules 44.7 and 44.8, be rejected and not counted.

45.7. Where the voter is entitled to vote for more than one candidate, a text voting record is not to be rejected because of uncertainty in respect of any vote where no uncertainty arises, and that vote is to be counted.

45.8. A text voting record on which a vote is marked:

(a) otherwise than by means of a clear mark,
(b) 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 text voting record is marked does not itself identify the voter and it is not shown that he or she can be identified by it.

45.9. The returning officer is to:

(a) endorse the word “rejected” on any text voting record which under this rule is not to be counted, and
(b) in the case of a text voting record on which any vote is counted under rules 44.7 and 44.8, endorse the words “rejected in part” on the text voting record and indicate which vote or votes have been counted.

45.10. The returning officer is to draw up a statement showing the number of rejected text voting records under the following headings:

(a) voting for more candidates than the voter is entitled to,
(b) writing or mark by which voter could be identified, and
(c) unmarked or rejected because of uncertainty.
and, where applicable, each heading must record the number of text voting records rejected in part.

46. Not used

47. Not used

48. Not used

49. Not used

50. Not used

51. Not used

52. Equality of votes

52.1. 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

53. Declaration of result for contested elections

53.1. 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 NHS Trust by section 33(4) of the 2006 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.

53.2. 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 44.5.
(c) the number of rejected text voting records under each of the headings available on request.

54. Declaration of result for uncontested elections

54.1. 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

55. Sealing up of documents relating to the poll

55.1. 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, internet voting records, telephone voting records and text voting records

(b) the ballot papers and text voting records endorsed with "rejected in part",

(c) the rejected ballot papers and text voting records, and

(d) the statement of rejected ballot papers and the statement of rejected text voting records,

and ensure that complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 are held in a device suitable for the purpose of storage.

55.2. The returning officer must not open the sealed packets of:

(a) the disqualified documents, with the list of disqualified documents inside it,

(b) the list of spoilt ballot papers and the list of spoilt text message votes,

(c) the list of lost ballot documents, and

(d) the list of eligible voters.
or access the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage.

55.3. 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.

56. Delivery of documents

56.1. Once the documents relating to the poll have been sealed up and endorsed pursuant to rule 56, the returning officer is to forward them to the chair of the corporation.

57. Forwarding of documents received after close of the poll

57.1. 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 voting information are made too late to enable new voting information 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.

58. Retention and public inspection of documents

58.1. 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 board of directors of the corporation, cause them to be destroyed.

58.2. With the exception of the documents listed in rule 58.1, 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.

58.3. 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.

59. Application for inspection of certain documents relating to an election

59.1. The corporation may not allow:
(a) the inspection of, or the opening of any sealed packet containing –

(i) any rejected ballot papers, including ballot papers rejected in part,
(ii) any rejected text voting records, including text voting records rejected in part,
(iii) any disqualified documents, or the list of disqualified documents,
(iv) any counted ballot papers, internet voting records, telephone voting records or text voting records, or
(v) the list of eligible voters, or

(b) access to or the inspection of the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage,

(c) by any person without the consent of the board of directors of the corporation.

59.2 A person may apply to the board of directors of the corporation to inspect any of the documents listed in rule 58.1, and the board of directors of the corporation 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.

59.3 The board of directors of the corporation’s consent may be on any terms or conditions that it thinks necessary, including conditions as to –

(a) persons,
(b) time,
(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.

59.4 On an application to inspect any of the documents listed in rule 58.1 the board of directors of the corporation must:

(a) in giving its consent, and
(b) in making the documents available for inspection

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
that Monitor has declared that the vote was invalid.

Part 9: DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

60. Countermand or abandonment of poll on death of candidate

60.1. 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 voting information has 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.

60.2. Where a new election is ordered under rule 59.1, 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.

60.3. Where a poll is abandoned under rule 59.1(a), rules 59.4 to 59.7 are to apply.

60.4. The returning officer shall not take any step or further step to open envelopes or deal with their contents in accordance with rules 38 and 39, and is to make up separate sealed packets in accordance with rule 40.

60.5. The returning officer is to:

(a) count and record the number of ballot papers, internet voting records, telephone voting records and text voting records that have been received,

(b) seal up the ballot papers, internet voting records, telephone voting records and text voting records into packets, along with the records of the number of ballot papers, internet voting records, telephone voting records and text voting records and

ensure that complete electronic copies of the internet voting records telephone voting records and text voting records created in accordance with rule 26 are held in a device suitable for the purpose of storage.

60.6. 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.

60.7. Once the documents relating to the poll have been sealed up and endorsed pursuant to rules 59.4 to 59.6, the returning officer is to deliver them to the chairman of the corporation, and rules 57 and 58 are to apply.

Part 10: ELECTION EXPENSES AND PUBLICITY

Election expenses

61. Election expenses

61.1. 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 made to Monitor under Part 11 of these rules.

62. Expenses and payments by candidates

62.1. 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,

(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.

63. Election expenses incurred by other persons

63.1. 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.

63.2. Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 63 and 64.

Publicity

64. Publicity about election by the corporation

64.1. The corporation may:

(a) compile and distribute such information about the candidates, and
organise and hold such meetings to enable the candidates to speak and respond to questions, as it considers necessary.

64.2. Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 64, 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.

64.3. 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.

65. Information about candidates for inclusion with voting information

65.1. 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.

65.2. The information must consist of:

(a) a statement submitted by the candidate of no more than 250 words.

(b) if voting by telephone or text message is a method of polling for the election, the numerical voting code allocated by the returning officer to each candidate, for the purpose of recording votes using the telephone voting facility or the text message voting facility (“numerical voting code”), and

(c) a photograph of the candidate.

66. Meaning of “for the purposes of an election”

66.1. 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.

66.2. 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

67. Application to question an election

67.1. An application alleging a breach of these rules, including an electoral irregularity under Part 10, may be made to Monitor for the purpose of seeking a referral to the independent election arbitration panel (IEAP).

67.2. An application may only be made once the outcome of the election has been declared by the returning officer.

67.3. An application may only be made to Monitor 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.

67.4. The application must:

   (a) describe the alleged breach of the rules or electoral irregularity, and

   (b) be in such a form as the independent panel may require.

67.5. The application must be presented in writing within 21 days of the declaration of the result of the election. Monitor will refer the application to the independent election arbitration panel appointed by Monitor.

67.6. If the independent election arbitration panel requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.

67.7. Monitor shall delegate the determination of an application to a person or panel of persons to be nominated for the purpose.

67.8. The determination by the IEAP 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.

67.9. The IEAP may prescribe rules of procedure for the determination of an application including costs.

Part 12: MISCELLANEOUS

68. Secrecy

68.1. 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 voting information or who has or has not voted,
(ii)
(iii) the unique identifier on any ballot paper,
(iv)
(v) the voter ID number allocated to any voter,
(vi) the candidate(s) for whom any member has voted.

68.2. 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 or the voter ID number allocated to a voter.

68.3. 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.

69. Prohibition of disclosure of vote

69.1. 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.

70. Disqualification

70.1. 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.

71. Delay in postal service through industrial action or unforeseen event

71.1. If industrial action, or some other unforeseen event, results in a delay in:

(a) the delivery of the documents in rule 24, or
(b) the return of the ballot papers,

the returning officer may extend the time between the publication of the notice
of the poll and the close of the poll by such period as he or she considers
appropriate.
39th Council of Governors  
10th December 2015

<table>
<thead>
<tr>
<th>Agenda item</th>
<th>KPMG Governor Survey – Governor Gauge</th>
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<tr>
<td>Item from</td>
<td>Jo Mant, Head of Stakeholder Engagement</td>
</tr>
<tr>
<td>Attachments</td>
<td>Front Sheet only</td>
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**Summary and Highlights**

This is an outstanding action from the Council of Governors on 19 March 2015.

The trust has been seeking a solution to effectively undertake governor skills and competencies analysis, monitor uptake and identify and effectively address governor education and training needs.

Membership Engagement Services (MES), the provider of our membership database, has in partnership with Black Country Partnerships NHS Foundation Trust, created an online tool to gain insight into a governor’s understanding of the trust, their knowledge of the systems, processes and information available to them and their development needs, to enable them to fulfil their role.

Our governors have been given an overview of this system, and at the informal meeting will have the opportunity to speak to a governor from the Black Country Partnerships NHS Foundation Trust to seek their view on its effectiveness.

The system will be adapted for the trust and the Trust Secretary’s office would wish to work with governor representatives to develop this.

The Council of Governors are asked to approve the introduction and development of Governor Gauge for the trust.

**Key Benefits:**

A greater understanding of governors’ education and training needs and what is needed to support them to fulfil their role.

**Recommendation:**

To approve.
Council of Governors
10th December 2015

Item 8
Enclosure 4

Agenda item | Elections update
Item from | Jo Mant, Head of Stakeholder Engagement
Attachments | Front Sheet only

Summary and Highlights
By-election 2015 - vacancies

Public – 2

- Bromley x 1
- Greenwich x 1

Service User/Carer - 1

- Learning Disabilities x 1

Staff – 1

- Forensic and prison health services

Notice of election/nominations process opened 16 November 2015, with deadline for nominations 14 December 2015.

Where there is one nomination for one position, the nominee will be elected unopposed. If more than one nomination for any of the above constituencies is received, a notice of Poll will be published on 14 January and voting packs sent to all members within the relevant constituencies on 15 January 2016. The election process will close 4 February 2016 and results declared on 5 February 2016.

Key Benefits:

Recommendation:

To note.
<table>
<thead>
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<tr>
<td>Item from</td>
<td>Rob Imeson, Governor</td>
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<tr>
<td>Attachments</td>
<td>Membership Committee Report December 2015</td>
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**Summary and Highlights**

Please see the attached Membership Committee Report.

**Key Benefits:**

**Recommendation:**

The Council of Governors to note.
1. Introduction

Since the last verbal report to the Council of Governors on 17 September the Membership Committee has met just once, on the 26 November. The mid-October meeting had to be cancelled due to the number of apologies received. The Membership Committee continues to be concerned that unless more Governors actively engage with the Committee we will struggle to meet our responsibilities to the Trust and our members.

2. A Brief Summary of Committee Business (Sep-Nov 2015)

2.1 Agreed that we should continue to develop joint fund raising activities with Charlton Athletic Community Trust (CACT).

2.2 Agreed that we should invite an outside speaker from another Foundation Trust to talk to the Council of Governors about successful membership initiatives.

2.3 Agreed that we should support and encourage learning disability representation within the Council of Governors.

2.4 Agreed the programme, and related promotion, for the 2015 Members Health Event (2nd December).

2.5 Agreed that the development of the Trust’s web site, and the monitoring of usage, should be regularly reviewed in the context of enhanced Member/ Governor communication.

2.6 Agreed that the Trust should be encouraged to review both the venue and the programme content for the 2016 AMM.

2.7 Agreed 2016 dates for the Members Focus Groups across the 3 Boroughs and a Bromley Partnership Event (Saturday, 12 March 2016).

2.8 Agreed 2016 dates for the Membership Committee meetings (dates, times and venues will be circulated to all Governors in December)

3. Looking to the Future

As previously reported the Committee wishes to encourage greater active engagement by Board members and Governors in our work with members.

I want to stress again that the Committee welcomes Governors to come along and join us - we want to hear your views.

For more information please contact:
Jo Mant (Head of Stakeholder Engagement Jo.Mant@oxleas.nhs.uk) and/or
Rob Imeson (Committee Chair imesoncoaching@aol.co.uk)
## Membership statistics as at 3 December 2015

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<tr>
<th>Constituency: Public</th>
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<th>As at 3.12.15</th>
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<th>Growth +/-</th>
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<th>Constituency: Staff</th>
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| Grand total                      | **9576**     | **9755**      | **+179**   |
### Agenda item
Serious Incident Inquiry Reports – DDS and Goddington

### Item from
Ben Travis Acting Chief Executive

### Attachments
- a) Board Inquiry Level 5 – DDS
- b) Action Plan – DDS
- c) Action Plan - Goddington
- d) Goddington Overarching report

### Summary and Highlights

Attached is the Board Inquiry Serious Incident Executive Summary for DDS and subsequent action plans for Goddington ward.

Also attached is the overarching report covering all three Level 5 incidents relating to Goddington ward which took place between April 2015 to June 2015.

As a further serious incident took place on Goddington ward in October 2015, we have commissioned an independently chaired level 5 Board Inquiry to investigate this incident. This inquiry panel will review this incident alongside the earlier 3 incidents and report on whether there are further learnings from reviewing these 4 incidents together.

### Key Benefits:

### Recommendation:

To note.
Executive Summary

DDS was a 45 year old man who died on 11 June 2015 after being hit by a lorry on the A21 near the Princess Royal University Hospital, Bromley. He was on one hour’s ‘unescorted leave’ from Goddington ward at the time of the incident. He had a diagnosis of paranoid schizophrenia.

DDS lived with his wife of 15 years and their 10 year old son. His parents, who he was close to, and his wife were all very involved in his care, and during his admission he spent time nearly every day away from the ward with his parents and sometimes his son.

DDS was well known to Oxleas services, having spent time as an inpatient on Goddington ward in December 2013/ January 2014 following a suicide attempt, and having been cared for by our community teams following discharge in January 2014. He was admitted again to Goddington ward in March 2015 following a deterioration in his mental state.

During the course of DDS’s stay on Goddington ward in 2015, he was the subject of 12 ward rounds, 9 of which were led by the consultant psychiatrist. He was granted one hour’s unescorted leave at the ward round on 29 May 2015, and up until 11 June 2015 these periods of unescorted leave were taken without incident.

DDS’s discharge from the ward had been discussed and it was agreed that he would initially move in with his parents.

The panel found that there were no root causes, and concluded that DDS’s death on 11 June 2105 could not have been foreseen; this is consistent with the view of DDS’s parents.

The panel’s view was that the care and treatment provided to DDS was of a high standard. Care plans were carefully drawn up and documented, in discussion with DDS and his family. DDS’s risks were regularly reviewed and care plans updated accordingly, and there were good levels of interaction between the ward team, DDS, and his family.

Prior to his admission in 2015, DDS received very good support in the community from the Home Treatment Team and then his Care Co-ordinator, and also received a comprehensive programme of psychological therapy.

This report identifies one care and service delivery issue and one recommendation. DDS was a voluntary patient, yet his time away from the ward with his family was referred to as ‘escorted leave’, which is not appropriate as he was not a detained patient. The panel’s view was that this did not have any impact on the care that DDS received from Oxleas.

Recommendation
It is recommended that the practice of granting ‘escorted’ leave to voluntary patients should cease. If clinicians are concerned about the appropriateness of a patient leaving the ward unaccompanied, detention under a section should be considered.
## Serious Incident Action Plan

**Initials:** DDS  
**Incident date:** 11/06/2015  
**Team involved at time of incident:** Goddington Ward  
**Date of action plan:** 17/09/15

**Brief summary of incident:** DDS was a 45 year old man who died on 11 June 2015 after being hit by a lorry on the A21 near the Princess Royal University Hospital, Bromley. He was on one hour’s ‘unescorted leave’ from Goddington ward at the time of the incident. He had a diagnosis of paranoid schizophrenia.

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Action required</th>
<th>Due by</th>
<th>Lead</th>
<th>How changes will be evidenced</th>
<th>Progress and date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. It is recommended that the practice of granting ‘escorted’ leave to voluntary patients should cease. If clinicians are concerned about the appropriateness of a patient leaving the ward unaccompanied, detention under a section should be considered</td>
<td>Training for staff on use of MHA and leave policy. This will include capacity assessments and risk assessments that need to be carried out by staff whenever a patient is leaving the ward. Staff must be very clear that if an informal patient is not considered safe to go on unescorted leave the MHA should be applied.</td>
<td>30/11/15</td>
<td>Adrian Dorney to liaise with Lisa Moylan to arrange training for staff.</td>
<td>Copy of email communication</td>
<td></td>
</tr>
<tr>
<td><strong>Leave to be discussed as an agenda item at the October Consultants meeting.</strong></td>
<td><strong>31/10/15</strong></td>
<td><strong>Dr Akenzua</strong></td>
<td><strong>Minutes of Consultant Meeting to be provided.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>- All Inpatient Consultant Psychiatrists to be reminded by email that escorted leave should not be arranged for informal patients.</strong></td>
<td><strong>20/10/15</strong></td>
<td><strong>Dr Tracy</strong></td>
<td><strong>Copy of email communication.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>- All ward Managers to be reminded by email that escorted leave should not be arranged for informal patients.</strong></td>
<td><strong>20/10/15</strong></td>
<td><strong>Darren Ward</strong></td>
<td><strong>Copy of email communication.</strong></td>
<td></td>
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</tr>
<tr>
<td><strong>Patients leave to be audited in January to provide assurance that practice has changed.</strong></td>
<td><strong>28/2/15</strong></td>
<td><strong>Francis Adzinku</strong></td>
<td><strong>Audit report to be provided</strong></td>
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</tbody>
</table>
**SERIOUS INCIDENT ACTION PLAN**

<table>
<thead>
<tr>
<th>Goddington ward overarching report of three recent incidents AD, TB and DDS.</th>
<th>Incidents occurred between April and June 2015</th>
<th>Team involved at time of incidents: Goddington Ward</th>
<th>Date of action plan: 17/09/15</th>
</tr>
</thead>
</table>

Brief summary of incident: Goddington ward is a 16 bedded adult acute mental health ward within Green Parks House, which is located on the site of Bromley’s acute hospital, The Princess Royal University Hospital.

Prior to April 2015, there had been x level 5 incidents on Goddington ward since its opening in 1999. The following three level 5 incidents occurred between April 2015 and June 2015:

- **AD** – a 25 year old man who died on 8 April 2015 having been hit by a train 4 hours after discharge from the ward
- **TB** – a 48 year old man who died on 9 April 2015 whilst on leave from the ward, following an overdose of prescribed medication, alcohol, and blood-loss as a result of self-harm.
- **DDS** – a 45 year old man who died on 11 June 2015 having been hit by a lorry whilst on one hour’s unescorted leave from the ward

Level 5 Board Inquiries have been completed for each of these incidents, and a report was produced to look at common themes and learnings across all three incidents.

This report made an additional three recommendations:
<table>
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<tr>
<th>Recommendation</th>
<th>Action required</th>
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<th>Lead</th>
<th>How changes will be evidenced</th>
<th>Progress and date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. There is a comprehensive review of the care and treatment available to patients with Personality Disorder across Oxleas.</td>
<td>Whilst there is a well understood and implemented pathway for personality disorder in the community it is acknowledged that the inpatient response is less robust. In order to provide a clear inpatient pathway we need to review current practice and compare this to clinical guidance/best practice. We should also look to learn from models across the country that are able to evidence good outcomes for patients for PD. This is a significant piece of work. We will commission a review of our PD pathway and look to have findings available by March 2016, we will then implement any changes necessary.</td>
<td>31/3/16</td>
<td>Dr Derek Tracy, Associate Clinical Director</td>
<td>Report on findings of pathway review</td>
<td></td>
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<tr>
<td>2) When there is a patient who is not suited to a general acute ward environment, every effort is made to find the patient a more suitable placement. Should this prove difficult, the matter should be quickly escalated to senior managers, and if necessary, Directors.</td>
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<tr>
<td>3) Recognising the pivotal role of the ward manager, robust interim arrangements are put in place as soon as it is clear that a ward manager will be absent for more than 2 weeks.</td>
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</table>

| When a ward flags concerns that a patient is not suitable for the ward environment, a strategy meeting will take place within two weeks and involve senior managers. Next steps will be agreed and senior managers will maintain close oversight until the agreed actions have been fully implemented. **Service Managers, Modern Matrons and Ward Managers to be advised of requirement.** |
| 31/10/15 |
| Adrian Dorney, Associate Director |
| Copy of email communication |

| To develop an agreed protocol for managing the absence of a ward manager when this absence exceeds two weeks. This may involve staff acting up or indeed acting down. The name of the acting manager needs to be clearly communicated to avoid any confusion about who is taking responsibility for the ward. As part of this work we will explore the idea of having a deputy ward manager role. |
| 30/11/15 |
| Darren Ward, Service manager and Francis Adzinku, Head of nursing |
| Copy of Protocol |
1 Introduction

Goddington ward is a 16 bedded adult acute mental health ward within Green Parks House, which is located on the site of Bromley’s acute hospital, The Princess Royal University Hospital.

Prior to April 2015, there had been no level 5 incidents related to Goddington ward since its opening in 2000. The following three level 5 incidents occurred between April 2015 and June 2015:

- AD – a 25 year old man who died on 8 April 2015 having been hit by a train 4 hours after discharge from the ward
- TB – a 48 year old man who died on 9 April 2015 whilst on leave from the ward, following an overdose of prescribed medication, alcohol, and blood-loss as a result of self-harm
- DDS – a 45 year old man who died on 11 June 2015 having been hit by a lorry whilst on one hour’s ‘unesescorted’ leave from the ward

Level 5 Board Inquiries have been completed for each of these incidents, and this report looks at common themes and learnings across all three incidents.

2 Key questions that this report will consider

- Were the 3 incidents linked?
- Were there systemic deficiencies in the care provided on the ward?
- Were there similar issues noted across the 3 incidents?
- Were there areas of good practice identified by the panel?
- Is the panel making any further recommendations, over and above the recommendations contained within the 3 separate reports?

3 Inquiry panel

The same panel investigated each of the 3 separate incidents, and comprised:

- Ben Travis: Chair, and Director of Finance
- Dave Mellish: Trust Chair
- Dr Ify Okocha: Medical Director
- Bryony Robertson: Head of Patient Safety
- Natalie Warman: Interim Associate Director of Nursing
- John Woolgrove: Governor
4 Were the 3 incidents linked?

The panel’s view was that there was not one single issue that linked all 3 incidents. The panel made a number of recommendations about improving care moving forwards, but there was not one issue across the 3 incidents that stood out as being the reason why the incidents occurred.

5 Were there systemic deficiencies in the care provided on the ward?

The panel did not identify systemic deficiencies in the care that was provided. Whilst the panel found that the care in 2 of the incidents should have been better, no root causes were identified in any of the 3 incidents.

6 Were there similar issues noted across the 3 incidents?

6.1 Understanding the difference in care provided to DDS compared to AD and TB

The panel identified a number of similar issues in the incidents involving AD and TB, but found that the care that DDS received was of a high standard. The panel wanted to understand the sharp contrast between the care that AD and TB received compared to the care that DDS received, and considered the following possible explanations for this:

- Consultant led ward rounds in the care of DDS but not AD and TB
  This was discussed with members of the clinical team and they did not consider this to be a major factor. They confirmed that the same approach is taken and the same processes are in place regardless of which grade of doctor is leading a patient’s care.

- Differing diagnoses
  AD and TB were both diagnosed with Personality Disorders, whereas DDS was diagnosed with paranoid schizophrenia. The clinical teams explained that it in some senses it was more difficult to document care plans for patients with Personality Disorder. The panel were of the opinion that the care plans for AD and TB were not sufficient to meet their clinical needs.

The panel’s view was that diagnosis was the key factor that differentiated the care provided to DDS and both AD and TB.

1) It is recommended that there is a comprehensive review of the care and treatment available to patients with Personality Disorder across Oxleas.

There are recommendations in the TB report that address the issue identified regarding consultant led ward rounds.
6.2 Impact that an exceptionally unwell patient had on the ward

DDS, TB and AD were all inpatients at the same time as a patient who required significant clinical input. This patient required 2:1 nursing, had multiple cardiac risk factors, acute respiratory failure on the ward, and morbid obesity. When psychotic, the patient was violent to staff which required police attendance to the ward, did not sleep, and frequently disrupted ward based activities.

This had an impact on both staff and patients on the ward, even though additional staff were brought onto the ward as required. The panel’s view, based on the discussions with the clinical team, was that Goddington ward was not an appropriate clinical environment for this patient. The panel heard that initial attempts to place this patient in a more appropriate setting were not successful, but that after 5 months of this patient being in Green Parks House, a more appropriate placement was found.

2) It is recommended that, when there is a patient who is not suited to a general acute ward environment, every effort is made to find the patient a more suitable placement. Should this prove difficult, the matter should be quickly escalated to and acted upon by senior managers, and if necessary, Directors.

6.3 Ward manager

The ward manager of Goddington ward was on long term sick for the majority of the time that the 3 patients were on the ward. The panel’s view that the nursing staff would have benefitted from the leadership of an experienced ward manager, particularly given the challenges in caring for the patient referred to in section 6.2.

3) It is recommended that, recognising the pivotal role of the ward manager, robust interim arrangements are put in place as soon as it is clear that a ward manager will be absent for more than 2 weeks.

6.4 Involvement of carers and family

The way in which families and carers were engaged by the clinical team was not consistent. There was regular and comprehensive communication with DDS’ family, but the same could not be said for AD and TB. Recommendations have been made in the AD report to address this.

6.5 Pressures on beds and sleepovers

Whilst there were no recorded sleepovers on Goddington ward during AD and TB’s admissions, it was clear that the ward was constantly busy and operating against the backdrop of considerable pressure on beds. When the panel met with the clinical team to give feedback on the AD and TB reports, the one recommendation that they asked the panel to consider was stopping the practice of sleepovers. There is a recommendation regarding sleepovers in the TB report.
6.6  Therapeutic engagement

It was noted in the AD and TB inquiries that there was a lack of protected therapeutic time on the ward; which is in contrast to DDS. There is a recommendation in the AD report to address this, and the recommendation set out in section 6.1 of this report should also address this issue.

6.7  Care planning

Whilst the care plans for DDS were carefully formulated and documented, the panel was disappointed with the standard of care planning for AD and TB. Recommendations have been made in both the AD and TB reports to address this issue.

6.8  Management of leave

Even though the incident involving DDS occurred during one hour’s ‘unescorted’ leave, the panel found that the processes and decision making regarding DDS’s leave were sound. TB’s leave appeared to be very much left up to TB, with little clinical input or supervision.

In addition, there appeared to be confusion across DDS and TB with regard to leave arrangements for voluntary patients, with references to ‘escorted’ leave – which is not appropriate for a patient who is not detained.

Recommendations have been made in both DDS and TB reports to address these issues.

7  Were there areas of good practice identified by the panel?

Whilst the panel identified many instances of good practice relating to DDS’s care and treatment, this was not evident when reviewing the care of AD and TB.

7.1  Staffing levels

Staffing levels were in line with Oxleas standards for safer staffing over the course of the three patients’ stay, and it was evident that additional staff had been brought in to care for the challenging patient referred to in section 6.2.

7.2  Support offered by the community teams

The panel met with the care coordinators for DDS and TB and were impressed by their knowledge and dedication. It was clear that they knew their patients well, and offered a very good level of care and support to them.
8 Is the panel making any further recommendations, over and above the recommendations contained within the 3 separate reports?

As set out above, the panel is making the following recommendations, in addition to those set out in the 3 separate reports. It is recommended that:

1) There is a comprehensive review of the care and treatment available to patients with Personality Disorder across Oxleas.

2) When there is a patient who is not suited to a general acute ward environment, every effort is made to find the patient a more suitable placement. Should this prove difficult, the matter should be quickly escalated to and acted upon by senior managers, and if necessary, Directors.

3) Recognising the pivotal role of the ward manager, robust interim arrangements are put in place as soon as it is clear that a ward manager will be absent for more than 2 weeks.
JW was a 43 year old woman who was found dead in her flat on 9th June 2015 with a knife in her heart. JW had a diagnosis of paranoid schizophrenia exacerbated by consumption of alcohol.

JW lived in rented accommodation in Erith. She had been moved from her home in Sidcup as a result of threatening her neighbours with a knife. JW was divorced. Her children live with the paternal grandparents. JW was in regular contact with her parents who actively supported her care.

JW had been under the care of Oxleas since 1999 and was well known to the service. For the majority of this time her condition was well managed in the community. There had been one incident of self harm in 2006. Her condition had deteriorated in recent years. Between 2013 and her death in 2015 she had been admitted on seven occasions, often as a result of failing to comply with her depot medication. JW had been on a CTO since January 2014.

At the time of her death JW was on section 17 leave from Lesney ward whilst awaiting completion of CTO documentation. JW went on leave on 21st May. She was seen in ward round by the consultant psychiatrist on 28th May and attended clinic for her depot injection on 2nd June. The panel noted that the documentation to extend her leave from Lesney ward expired on 5th June and had not been updated. JW gave no indication that she was planning self harm despite being explicitly questioned. Previously when she had had feelings of self harm she had always contacted her Care Co-ordinator directly to express her fears, this did not happen on this occasion.

The panel found that there were no root causes and concluded that JW’s death could not have been foreseen.

The panel’s view was that the care provided to JW was of a satisfactory standard but that there were opportunities that could have been pursued to deliver a more personalised level of care that made better use of the information and support provided to JW by her parents. The panel also noted that for the whole period of care reviewed, JW was placed in the red zone of risk which would normally only apply to patients in crisis without any plan to remove her from this level, this also had the effect of obscuring genuine crises as they occurred.
The panel made six recommendations

i) No patient should be placed in the red zone for more than two weeks without a full action plan being put in place and reviewed by the MDT.

ii) All patients on extended leave from the ward remain the responsibility of the ward and should be proactively contacted regularly by ward staff to ensure their continued wellbeing and identify early any signs of relapse.

iii) Staff should take advantage of the knowledge that families have in order to improve the quality of care delivered and should make every effort to seek this knowledge and utilise in the development of care plans.

iv) Patients on extended leave from the ward remain the responsibility of the ward and should be discussed in the ward round to ensure that critical documentation is maintained and risk is assessed.

v) The Oxleas Caseload Zoning Tool should be reviewed in light of the new service configurations to ensure that patients are regularly assessed for their risk. The tool should be explicit as to the frequency of zoning for specific teams.

When safe staffing levels are determined, the calculation must take into account the need to provide a suitable level of activities for patients.

**Key Benefits:**

**Recommendation:**

To note
# Serious Incident Action Plan

**Initials:** JW  
**Incident date:** 09/06/2015  
**Team involved at time of incident:** Lesney Ward/Bexley Recovery team  
**Date of action plan:** 23/10/2015

Brief summary of incident: JW was a 43 year old woman who was found dead in her flat on 9th June 2015 with a knife in her heart. JW had a diagnosis of paranoid schizophrenia exacerbated by consumption of alcohol.

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<thead>
<tr>
<th>Recommendation</th>
<th>Action required</th>
<th>Due by</th>
<th>Lead</th>
<th>How changes will be evidenced</th>
<th>Progress and date</th>
</tr>
</thead>
</table>
| 1. No patient should be placed in the red zone for more than two weeks without a full action plan being put in place and reviewed by the MDT. | 1. Refresher training to all teams, using case examples and ensuring staff have the opportunity to explore barriers to robust zoning and produce a plan as to how these can be overcome.  
  2. Zoning policy to be updated  
  3. Post redesign operational policies to state zoning expectations for each team  
  4. Clear standards being developed based on data | January 2016  
  December 2015  
  October 2015  
  February | Practice development nurse  
  Practice development nurse  
  Service manager  
  Practice | Training delivered, learning used to refine programme  
  Updated policy  
  Explicit statements in operational policies  
  Standards |
<p>| 2. All patients on extended leave from the ward remain the responsibility of the ward and should be proactively contacted regularly by ward staff to ensure their continued wellbeing and identify early any signs of relapse. | The ward should aim to contact patients on leave each day. Where this is not possible, as a minimum standard, patients should be contacted on the first day and in each 48 hour period thereafter. Patients should be asked to return to the ward for review after one week on leave. Use of extended leave should only be used in exceptional circumstances. | October 2015 | Service manager and modern matron | Audit use of leave in January 2016 |
| 3. Staff should take advantage of the knowledge that families have in order to improve the quality of care delivered and should make every effort to seek this knowledge and utilise in the development of care plans. | Sessions with teams led by Practice Development Nurses/Service Managers to explore ways of improving quality of family and carer relationships. This should include discussions about how much training and support the team have had in family inclusive practice, to identify and further training needs. Evidence of involvement with families and carers should be found in: | January 2016 | Practice Development Nurses/Service Managers |  |</p>
<table>
<thead>
<tr>
<th>CPA Review</th>
<th>Progress notes</th>
<th>Care Plan</th>
<th>Carers Assessment</th>
</tr>
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<tbody>
<tr>
<td><strong>4. Patients on extended leave from the ward remain the responsibility of the ward and should be discussed in the ward round to ensure that critical documentation is maintained and risk is assessed.</strong></td>
<td>Ward round minutes to reflect discussion about patients on leave from the wards, these discussions should always check critical documentation such as leave papers.</td>
<td>November 2015</td>
<td>Service manager and modern matron with ward manager and consultant</td>
</tr>
<tr>
<td><strong>5. The Oxleas caseload zoning tool should be reviewed in light of the new service configurations to ensure that patients are regularly assessed for their risk. The tool should be explicit as to the frequency of zoning for specific teams.</strong></td>
<td>See action plan for recommendation 1</td>
<td></td>
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<tr>
<td><strong>6. When safe staffing levels are determined the calculation must take into account the need to provide a suitable level of activities for patients.</strong></td>
<td>Patient activities to be included in safe staffing discussions, Ward managers and senior nurses to utilize skills of ward team. Where a gym trained staff member is on shift time should be allocated for patients to make use of the Gym facilities.</td>
<td>January 2016</td>
<td>AD and ward manager</td>
</tr>
</tbody>
</table>


39th Council of Governors
10th December 2015

Agenda item
Reappointment of Steve James as Non-Executive Director

Item from
Andy Trotter, Chair

Attachments
a) Guidance on Reappointment of NEDs
b) Reappointment - Steve James

Summary and Highlights

The Nominations committee met on 30th November 2015 to review the process followed by the Chairman for the reappointment of Steve James as Non-Executive Director for a final three year term of office. Having reviewed the submitted documentation (attached) the Nominations committee were satisfied that the appropriate process had been followed.

Key Benefits:

Recommendation:

To Note
1. **Appointment of New Non-Executive Director**

The Nominations Committee has responsibility for selecting and recommending the appointment of new Non-Executive Directors (NEDs) to the Council of Governors.

New NEDs will, subject to satisfactory performance, be appointed for a period of 3 years.

2. **Reappointment of Non-Executive Director**

The Council of Governors has agreed that:

(a) existing NEDs, at the expiry of their current contract, can be reappointed for a further 3 year period by the Trust Chairman if the Chairman, based on their performance in the role and on Annual Appraisal, is satisfied that they carry out their functions in a diligent and effective manner.

(b) no NED will be allowed to continue in that role for more than 9 years (3 x 3 year periods), other than in very exceptional circumstances and then only for a further period of 1 year.

The Council of Governors has agreed that the Nominations Committee will, on its behalf, oversee the process of the reappointment of an existing NED by the Chairman.
REAPPOINTMENT OF NON-EXECUTIVE DIRECTOR

Steve James

Steve James joined Oxleas NHS FT on appointment as a NED on 1st January 2013. His current contract is due to expire on 31st December 2015.

I wish to reappoint Steve for the following reasons:

Steve has proved himself to be a most effective member of the Board and he has maintained his focus on care planning and in-patient and clinical outcomes. In discussions he maintains a fine balance between challenge, quality and support. He is a member of the Audit Committee, Quality Committee and is a regular attendee at the Council of Governors. His commitment to Oxleas far exceeds the minimum level in his contract.

In line with Cadbury Report and the principles laid out in the Monitor NHS Foundation Trust Code of Governance, I consider that Steve continues to be independent.

The Board is going through a period of transition and by continuing in his role for a future period of three years Steve will be providing continuity and experience.

Based upon his performance over the last three years and the balance of skills and experience on the Board I am very pleased that Steve wants to renew his contract for a future three years. I
therefore am pleased to reappoint him as a NED for the period 1\textsuperscript{st} January 2016 to 31\textsuperscript{st} December 2018.

A.S. Trotter. Chair