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1. INTRODUCTION

1.1 Statutory Framework

- 1.1.1 The Mid Essex Hospital Services NHS Trust (the Trust) is a statutory body which was established in 1992 under The Mid Essex Hospital Services NHS Trust (Establishment) Order.
- 1.1.2 The principal place of business of the Trust is Broomfield Court, Pudding Wood Lane, Broomfield, Chelmsford, Essex, CM1 7WE.
- 1.1.3 NHS Trusts are governed by Act of Parliament, mainly the National Health Service Act 1977 (NHS Act 1977), the National Health Service and Community Care Act 1990 (NHS & CC Act 1990) as amended by the Health Authorities Act 1995 and the Health Act 1999.
- 1.1.4 The functions of the Trust are conferred by this legislation.
- 1.1.5 As a statutory body, the Trust has specified powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable as well as to the Secretary of State for Health.
- 1.1.6 The Trust also has statutory powers under Section 28A of the NHS Act 1977, as amended by the Health Act 1999, to fund projects jointly planned with local authorities, voluntary organisations and other bodies.
- 1.1.7 The Code of Accountability requires the Trust to adopt Standing Orders for the regulation of its proceedings and business. The Trust must also adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals.
- 1.1.8 The Trust will also be bound by such other statutes and legal provisions which govern the conduct of its affairs.

1.2 NHS Framework

- 1.2.1 In addition to the statutory requirements the Secretary of State through the Department of Health issues further directions and guidance. These are normally issued under cover of a circular or letter.
- 1.2.2 The Code of Accountability requires that, inter alia, Boards draw up a schedule of decisions reserved to the Board, and ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior executives (a scheme of delegation). The code also requires the establishment of audit and remuneration

committees with formally agreed terms of reference. The Codes of Conduct makes various requirements concerning possible conflicts of interest of Board members.

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

1.3 Delegation of Powers

The Trust has powers to delegate and make arrangements for delegation. The Standing Orders set out the detail of these arrangements. Under the Standing Order relating to the Arrangements for the Exercise of Functions (SO 6) the Trust is given powers to "make arrangements for the exercise, on behalf of the Trust of any of their functions by a committee, sub-committee or joint committee appointed by virtue of Standing Order 5 or by an officer of the Trust, in each case subject to such restrictions and conditions as the Trust thinks fit or as the Secretary of State may direct".

Delegated Powers are covered in two separate documents (Scheme of Reservation & Delegation and Scheme of Responsibility, Authority & Decision). These documents have effect as if incorporated into the Standing Orders and Standing Financial Instructions.

1.4 Integrated Governance

Board of Directors are now encouraged to move away from silo governance and develop integrated governance that will lead to good governance and to ensure that decision-making is informed by intelligent information covering the full range of corporate, financial, clinical, information and research governance.

2. INTERPRETATION AND DEFINITIONS FOR STANDING ORDERS

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

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

- 2.2.1 "Accountable Officer" means the NHS Officer responsible and accountable for funds entrusted to the Trust. The officer shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the Chief Executive.

- 2.2.2 "Trust" means the Mid Essex Hospital Services NHS Trust.

- 2.2.3 "Board" means the Chairman, officer and non-officer members of the Trust collectively as a body.
- 2.2.4 "Budget" means a resource, expressed in financial terms, proposed by the Board for the purpose of carrying out, for a specific period, any or all of the functions of the Trust.
- 2.2.5 "Budget holder" means the director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation.
- 2.2.6 "Chairman of the Board (or Trust)" is the person appointed by the Secretary of State for Health to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression "the Chairman of the Trust" shall be deemed to include the Deputy-Chairman of the Trust if the Chairman is absent from the meeting or is otherwise unavailable.
- 2.2.7 "Chief Executive" means the chief officer of the Trust.
- 2.2.8 "Commissioning" means the process for determining the need for and for obtaining the supply of healthcare and related services by the Trust within available resources.
- 2.2.9 "Committee" means a committee or sub-committee created and appointed by the Trust Board.
- 2.2.10 "Committee members" means persons formally appointed by the Board to sit on or to chair specific committees.
- 2.2.11 "Contracting and procuring" means the systems for obtaining the supply of goods, materials, manufactured items, services, building and engineering services, works of construction and maintenance and for disposal of surplus and obsolete assets.
- 2.2.12 "Director of Finance" means the Chief Financial Officer of the Trust.
- 2.2.13 "Funds held on trust" shall mean those funds which the Trust holds on date of incorporation, receives on distribution by statutory instrument or chooses subsequently to accept under powers derived under S.90 of the NHS Act 1977, as amended. Such funds may or may not be charitable.
- 2.2.14 "Member" means officer (Executive member) or non-officer (Non – Executive member) of the Board as the context permits. Member in relation to the Board does not include its Chairman.

- 2.2.15 "Associate Member" means a person appointed to perform specific statutory and non-statutory duties which have been delegated by the Board of Directors for them to perform and these duties have been recorded in an appropriate Board of Directors minute or other suitable record.
- 2.2.16 "Membership, Procedure and Administration Arrangements Regulations" means NHS Membership and Procedure Regulations (SI 1990/2024) and subsequent amendments.
- 2.2.17 "Nominated officer" means an officer charged with the responsibility for discharging specific tasks within Standing Orders and Standing Financial Instructions.
- 2.2.18 "Non-officer member" means a member of the Trust who is not an officer of the Trust and is not to be treated as an officer by virtue of regulation 1(3) of the Membership, Procedure and Administration Arrangements Regulations.
- 2.2.19 "Officer" means employee of the Trust or any other person holding a paid appointment or office with the Trust.
- 2.2.20 "Officer member" means a member of the Trust who is either an officer of the Trust or is to be treated as an officer by virtue of regulation 1(3) (i.e. the Chairman of the Trust or any person nominated by such a Committee for appointment as a Trust member).
- 2.2.21 "Secretary" means a person appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the Chairman and monitor the Trust's compliance with the law, Standing Orders, and Department of Health guidance.
- 2.2.22 "SFIs" means Standing Financial Instructions.
- 2.2.23 "SOs" means Standing Orders.
- 2.2.24 "Deputy-Chairman" means the non-officer member appointed by the Board to take on the Chairman's duties if the Chairman is absent for any reason.

3. THE BOARD OF DIRECTORS: COMPOSITION OF MEMBERSHIP, TENURE AND ROLE OF MEMBERS

3.1 Composition of the Membership of the Board of Directors

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

- The Chairman of the Trust (Appointed by the NHS Appointments Commission);

- Up to 5 non-officer members (appointed by the NHS Appointments Commission);
- Up to 5 officer members (but not exceeding the number of non-officer members) including:
 - the Chief Executive;
 - the Director of Finance;
 - Medical Director;
 - Director of Nursing.

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

3.2 Appointment of Chairman and Members of the Trust

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

3.3 Terms of Office of the Chairman and Members

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

3.4 Appointment and Powers of Deputy-Chairman

3.4.1 Subject to Standing Order 3.4.2 below, the Chairman and members of the Trust may appoint one of their numbers, who is not also an officer member, to be Deputy-Chairman, for such period, not exceeding the remainder of his term as a member of the Trust, as they may specify on appointing him.

3.4.2 Any non-officer member so appointed may at any time resign from the office of Deputy-Chairman by giving notice in writing to the Chairman. The Chairman and members may thereupon appoint another non-officer member as Deputy-Chairman in accordance with the provisions of Standing Order 3.4.1.

3.4.3 Where the Chairman of the Trust has died or has ceased to hold office, or where they have been unable to perform their duties as

Chairman owing to illness or any other cause, the Deputy-Chairman shall act as Chairman until a new Chairman is appointed or the existing Chairman resumes their duties, as the case may be; and references to the Chairman in these Standing Orders shall, so long as there is no Chairman able to perform those duties, be taken to include references to the Deputy-Chairman.

3.5 Joint Members

3.5.1 Where more than one person is appointed jointly to a post mentioned in regulation 2(4)(a) of the Membership, Procedure and Administration Arrangements Regulations those persons shall count for the purpose of Standing Order 3.1 as one person.

3.5.2 Where the office of a member of the Board is shared jointly by more than one person:

- (a) either or both of those persons may attend or take part in meetings of the Board;
- (b) if both are present at a meeting they should cast one vote if they agree;
- (c) in the case of disagreements no vote should be cast;
- (d) the presence of either or both of those persons should count as the presence of one person for the purposes of Standing Order 4.11 Quorum.

3.6 Role of Members

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

3.6.1 Officer Members (Executive Members)

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

3.6.2 Chief Executive

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

3.6.3 Director of Finance

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

3.6.4 Non- Officer Members (Non-Executive Members)

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

3.6.5 Chairman

The Chairman shall be responsible for the operation of the Board and chair all Board meetings when present. The Chairman has certain delegated executive powers. The Chairman must comply with the terms of appointment and with these Standing Orders.

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

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

3.7 Corporate role of the Board

3.7.1 All business shall be conducted in the name of the Trust.

3.7.2 All funds received in trust shall be held in the name of the Trust as corporate trustee.

- 3.7.3 The powers of the Trust established under statute shall be exercised by the Board meeting in public session except as otherwise provided for in Standing Order No. 4.
- 3.7.4 The Board shall define and regularly review the functions it exercises on behalf of the Secretary of State.

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

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

3.9 Lead Roles for Board Members

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

4. MEETINGS OF THE TRUST

4.1 Calling meetings

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

4.2 Notice of Meetings and the Business to be transacted

- 4.2.1 Before each meeting of the Board a written notice specifying the business proposed to be transacted shall be delivered to every member, or sent by post to the usual place of residence of each member, so as to be available to members at least three clear days before the meeting. The notice shall be signed by the Chairman or by an officer authorised by the Chairman to sign on their behalf. Want of

service of such a notice on any member shall not affect the validity of a meeting.

- 4.2.2 In the case of a meeting called by members in default of the Chairman calling the meeting, the notice shall be signed by those members.
- 4.2.3 No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under Standing Order 4.6.
- 4.2.4 A member desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman at least fifteen clear days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than fifteen days before a meeting may be included on the agenda at the discretion of the Chairman.
- 4.2.5 Before each meeting of the Board a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed at the Trust's principal offices at least three clear days before the meeting, (required by the Public Bodies (Admission to Meetings) Act 1960 Section 1 (4) (a)).

4.3 Agenda and Supporting Papers

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

4.4 Petitions

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

4.5 Notice of Motion

- 4.5.1 Subject to the provision of Standing Orders 4.7 'Motions: Procedure at and during a meeting' and 4.8 'Motions to Rescind a Resolution', a member of the Board wishing to move a motion shall send a written notice to the Chief Executive who will ensure that it is brought to the immediate attention of the Chairman.
- 4.5.2 The notice shall be delivered at least fifteen clear days before the meeting. The Chief Executive shall include in the agenda for the meeting all notices so received that are in order and permissible

under governing regulations. This Standing Order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

4.6 Emergency Motions

4.6.1 Subject to the agreement of the Chairman, and subject also to the provision of Standing Order 4.7 'Motions: Procedure at and during a meeting', a member of the Board may give written notice of an emergency motion after the issue of the notice of meeting and agenda, up to one hour before the time fixed for the meeting. The notice shall state the grounds of urgency. If in order, it shall be declared to the Board of Directors at the commencement of the business of the meeting as an additional item included in the agenda. The Chairman's decision to include the item shall be final.

4.7 Motions: Procedure at and during a meeting

4.7.1 Who may propose

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

4.7.2 Contents of motions

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

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

4.7.3 Amendments to motions

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

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

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

4.7.4 Rights of reply to motions

(a) Amendments

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

(b) Substantive/original motion

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

(c) Withdrawing a motion

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

(d) Motions once under debate

When a motion is under debate, no motion may be moved other than:

- an amendment to the motion;
- the adjournment of the discussion, or the meeting;
- that the meeting proceed to the next business;
- that the question should be now put;
- the appointment of an 'ad hoc' committee to deal with a specific item of business;
- that a member/director be not further heard;
- a motion under Section I (2) or Section I (8) of the Public Bodies (Admissions to Meetings) Act 1960 resolving to exclude the public, including the press (see Standing Order 4.17).

4.7.5 In those cases where the motion is either that the meeting proceeds to the 'next business' or 'that the question be now put' in the interests of objectivity these should only be put forward by a member of the Board who has not taken part in the debate and who is eligible to vote.

4.7.6 If a motion to proceed to the next business or that the question be now put, is carried, the Chairman should give the mover of the substantive motion under debate a right of reply, if not already exercised. The matter should then be put to the vote.

4.8 Motion to Rescind a Resolution

4.8.1 Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six

calendar months shall bear the signature of the member who gives it and also the signature of three other members, and before considering any such motion of which notice shall have been given, the Board of Directors may refer the matter to any appropriate Committee or the Chief Executive for recommendation.

- 4.8.2 When any such motion has been dealt with by the Board of Directors it shall not be competent for any director/member other than the Chairman to propose a motion to the same effect within six months. This Standing Order shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the Chief Executive.

4.9 Chairman of meeting

- 4.9.1 At any meeting of the Board of Directors the Chairman, if present, shall preside. If the Chairman is absent from the meeting, the Deputy-Chairman (if the Board has appointed one), if present, shall preside.

- 4.9.2 If the Chairman and Deputy-Chairman are absent, such member (who is not also an Officer Member of the Trust) as the members present shall choose, shall preside.

4.10 Chairman's ruling

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

4.11 Quorum

- 4.11.1 No business shall be transacted at a meeting unless at least one-third of the whole number of the Chairman and members (including at least one member who is also an Officer Member of the Trust and one member who is not) is present.
- 4.11.2 An Officer in attendance for an Executive Director (Officer Member) but without formal acting up status may not count towards the quorum.
- 4.11.3 If the Chairman or member has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of a declaration of a conflict of interest (see SO No.8) that person shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

4.12 Voting

- 4.12.1 Save as provided in Standing Orders 4.13 - Suspension of Standing Orders and 4.14 - Variation and Amendment of Standing Orders, every question put to a vote at a meeting shall be determined by a majority of the votes of members present and voting on the question. In the case of an equal vote, the person presiding (ie: the Chairman of the meeting shall have a second, and casting vote.
- 4.12.2 At the discretion of the Chairman all questions put to the vote shall be determined by oral expression or by a show of hands, unless the Chairman directs otherwise, or it is proposed, seconded and carried that a vote be taken by paper ballot.
- 4.12.3 If at least one third of the members present so request, the voting on any question may be recorded so as to show how each member present voted or did not vote (except when conducted by paper ballot).
- 4.12.4 If a member so requests, their vote shall be recorded by name.
- 4.12.5 In no circumstances may an absent member vote by proxy. Absence is defined as being absent at the time of the vote.
- 4.12.6 A manager who has been formally appointed to act up for an Officer Member during a period of incapacity or temporarily to fill an Executive Director vacancy shall be entitled to exercise the voting rights of the Officer Member.
- 4.12.7 A manager attending the Board of Directors meeting to represent an Officer Member during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Officer Member. An Officer's status when attending a meeting shall be recorded in the minutes.
- 4.12.8 For the voting rules relating to joint members see Standing Order 3.5.

4.13 Suspension of Standing Orders

- 4.13.1 Except where this would contravene any statutory provision or any direction made by the Secretary of State or the rules relating to the Quorum (SO 4.11), any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the whole number of the members of the Board are present (including at least one member who is an Officer Member of the Trust and one member who is not) and that at least two-thirds of those members present signify their agreement to such suspension. The reason for the suspension shall be recorded in the Board of Directors' minutes.

- 4.13.2 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chairman and members of the Trust.
- 4.13.3 No formal business may be transacted while Standing Orders are suspended.
- 4.13.4 The Audit Committee shall review every decision to suspend Standing Orders.

4.14 Variation and amendment of Standing Orders

- 4.14.1 These Standing Orders shall not be varied except in the following circumstances:
- upon a notice of motion under Standing Order 4.5;
 - upon a recommendation of the Chairman or Chief Executive included on the agenda for the meeting;
 - that two thirds of the Board members are present at the meeting where the variation or amendment is being discussed, and that at least half of the Trust's Non-Officer members vote in favour of the amendment;
 - providing that any variation or amendment does not contravene a statutory provision or direction made by the Secretary of State.

4.15 Record of Attendance

- 4.15.1 The names of the Chairman and members present at the meeting shall be recorded.

4.16 Minutes

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

4.17 Admission of public and the press

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

The public and representatives of the press may attend all meetings of the Trust, but shall be required to withdraw upon the Board of Directors as follows:

- 'that representatives of the press, and other members of the public, be excluded from the remainder of this meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest', Section 1 (2), Public Bodies (Admission to Meetings) Act 1960
- Guidance should be sought from the NHS Trust's Freedom of Information Lead to ensure correct procedure is followed on matters to be included in the exclusion.

4.17.2 General disturbances

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

- 'That in the interests of public order the meeting adjourn for (the period to be specified) to enable the Board of Directors to complete its business without the presence of the public'.
Section 1(8) Public Bodies (Admissions to Meetings) Act 1960.

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

Matters to be dealt with by the Board of Directors following the exclusion of representatives of the press, and other members of the public, as provided in (4.17.1) and (4.17.2) above, shall be confidential to the members of the Board.

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

4.17.4 Use of Mechanical or Electrical Equipment for Recording or Transmission of Meetings

Nothing in these Standing Orders shall be construed as permitting the introduction by the public, or press representatives, of recording, transmitting, video or similar apparatus into meetings of the Trust or

Committee thereof. Such permission shall be granted only upon resolution of the Trust.

4.18 Observers at Trust meetings

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

5. APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES

5.1 Appointment of Committees

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

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

5.2 Joint Committees

5.2.1 Joint committees may be appointed by the Trust by joining together with one or more other Trusts consisting of, wholly or partly of the Chairman and members of the Trust or other health service bodies, or wholly of persons who are not members of the Trust or other health bodies in question.

5.2.2 Any committee or joint committee appointed under this Standing Order may, subject to such directions as may be given by the Secretary of State or the Trust or other health bodies in question, appoint sub-committees consisting wholly or partly of members of the committees or joint committee (whether or not they are members of the Trust or health bodies in question) or wholly of persons who are not members of the Trust or health bodies in question or the committee of the Trust or health bodies in question.

5.3 Applicability of Standing Orders and Standing Financial Instructions to Committees

5.3.1 The Standing Orders and Standing Financial Instructions of the Trust, as far as they are applicable, shall as appropriate apply to meetings and any committees established by the Trust. In which case the term "Chairman" is to be read as a reference to the Chairman of other committee as the context permits, and the term "member" is to be read as a reference to a member of other committee also as the

context permits. (There is no requirement to hold meetings of committees established by the Trust in public.)

5.4 Terms of Reference

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

5.5 Delegation of powers by Committees to Sub-Committees

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

5.6 Approval of Appointments to Committees

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

5.7 Appointments for Statutory functions

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

5.8 Committees established by the Board of Directors

The committees, sub-committees, and joint-committees established by the Board are:

5.8.1 Audit Committee

In line with the requirements of the NHS Audit Committee Handbook, NHS Codes of Conduct and Accountability, and more recently the Higgs report, an Audit Committee will be established and constituted to provide the Board of Directors with an independent and objective review on its financial systems, financial information and compliance

with laws, guidance, and regulations governing the NHS. The Terms of Reference will be approved by the Board of Directors and reviewed on a periodic basis.

The Higgs report recommends a minimum of three non-executive directors be appointed, unless the Board decides otherwise, of which one must have significant, recent and relevant financial experience.

Terms of reference of the Audit Committee are attached at Appendix 1

5.8.2 Remuneration and Nominations Committee

In line with the requirements of the NHS Codes of Conduct and Accountability, and more recently the Higgs report, a Terms of Service and Remuneration Committee will be established and constituted.

The Higgs report recommends the committee be comprised exclusively of Non-Executive Directors, a minimum of three, who are independent of management.

The purpose of the Committee will be to advise the Board of Directors about appropriate remuneration and terms of service for the Chief Executive and other Executive Directors including:

- (a) all aspects of salary (including any performance-related elements/bonuses);
- (b) provisions for other benefits, including pensions and cars;
- (c) arrangements for termination of employment and other contractual terms.

Terms of reference of the Remuneration and Nominations Committee are attached at Appendix 2

5.8.3 Trust and Charitable Funds Committee

In line with its role as a corporate trustee for any funds held in trust, either as charitable or non charitable funds, the Board of Directors will establish a Trust and Charitable Funds Committee to administer those funds in accordance with any statutory or other legal requirements or best practice required by the Charities Commission.

The provisions of this Standing Order must be read in conjunction with Standing Order 3.8 and Standing Financial Instructions 17.

Terms of reference of the Charitable Funds Committee are attached at Appendix 3

5.8.4 Other Committees

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

Other committee's established by the Board of Directors are:

- Finance & Performance Committee
- Patient Safety & Quality Committee

6. ARRANGEMENTS FOR THE EXERCISE OF TRUST FUNCTIONS BY DELEGATION

6.1 Delegation of Functions to Committees, Officers or other bodies

6.1.1 Subject to such directions as may be given by the Secretary of State, the Board may make arrangements for the exercise, on behalf of the Board, of any of its functions by a committee, sub-committee appointed by virtue of Standing Order 5, or by an officer of the Trust, or by another body as defined in Standing Order 6.1.2 below, in each case subject to such restrictions and conditions as the Trust thinks fit.

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

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

6.2 Emergency Powers and urgent decisions

6.2.1 The powers which the Board has reserved to itself within these Standing Orders (see Standing Order 3.9) may in emergency or for an urgent decision be exercised by the Chief Executive and the Chairman after having consulted at least two non-officer members. The exercise of such powers by the Chief Executive and Chairman

shall be reported to the next formal meeting of the Board of Directors in public session for formal ratification.

6.3 Delegation to Committees

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

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

6.4 Delegation to Officers

6.4.1 Those functions of the Trust which have not been retained as reserved by the Board or delegated to other committee or sub-committee or joint-committee shall be exercised on behalf of the Trust by the Chief Executive. The Chief Executive shall determine which functions he/she will perform personally and shall nominate officers to undertake the remaining functions for which he/she will still retain accountability to the Trust.

6.4.2 The Chief Executive shall prepare a Scheme of Delegation identifying his/her proposals which shall be considered and approved by the Board. The Chief Executive may periodically propose amendment to the Scheme of Delegation which shall be considered and approved by the Board.

6.4.3 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the Director of Finance to provide information and advise the Board in accordance with statutory or Department of Health requirements. Outside these statutory requirements the roles of the Director of Finance shall be accountable to the Chief Executive for operational matters.

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

6.5.1 The arrangements made by the Board as set out in the "Schedule of Reservation and Delegation" of powers shall have effect as if incorporated in these Standing Orders.

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

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

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

7.1 Policy statements: general principles

- 7.1.1 The Board of Directors will from time to time agree and approve Policy statements/ procedures which will apply to all or specific groups of staff employed by the Trust. The decisions to approve such policies and procedures will be recorded in an appropriate Board of Directors minute and will be deemed where appropriate to be an integral part of the Trust's Standing Orders and Standing Financial Instructions.

7.2 Standing Financial Instructions

- 7.2.1 Standing Financial Instructions adopted by the Board of Directors in accordance with the Financial Regulations shall have effect as if incorporated in these Standing Orders.

7.3 Specific guidance

- 7.3.1 Notwithstanding the application of SO 7.1 above, these Standing Orders and Standing Financial Instructions must be read in conjunction with the following guidance and any other issued by the Secretary of State for Health:

- Caldicott Guardian 1997;
- Human Rights Act 1998;
- Freedom of Information Act 2000.

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

8.1 Declaration of Interests

- 8.1.1 Requirements for Declaring Interests and applicability to Board Members

The NHS Code of Accountability requires Board of Directors Members to declare interests which are relevant and material to the NHS Board of which they are a member. All existing Board members should declare such interests. Any Board members appointed subsequently should do so on appointment.

8.1.2 Interests which are relevant and material

Interests which should be regarded as "relevant and material" are:

- (a) Directorships, including Non-Executive Directorships held in private companies or PLCs (with the exception of those of dormant companies);
- (b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
- (c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
- (d) A position of authority in a charity or voluntary organisation in the field of health and social care;
- (e) Any connection with a voluntary or other organisation contracting for NHS services;
- (f) Research funding/grants that may be received by an individual or their department;
- (g) Interests in pooled funds that are under separate management.

Any member of the Board of Directors who comes to know that the Trust has entered into or proposes to enter into a contract in which he/she or any person connected with him/her (as defined in Standing Order 8.3 below and elsewhere) has any pecuniary interest, direct or indirect, the Board member shall declare his/her interest by giving notice in writing of such fact to the Trust as soon as practicable.

8.1.3 Advice on Interests

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

Financial Reporting Standard No 8 (issued by the Accounting Standards Board) specifies that influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.

8.1.4 Recording of Interests in Board of Directors minutes

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

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

8.1.5 Publication of declared interests in Annual Report

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

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

During the course of a Board of Directors meeting, if a conflict of interest is established, the Board member concerned should withdraw from the meeting and play no part in the relevant discussion or decision. (See overlap with SO 8.3)

8.2 Register of Interests

8.2.1 The Chief Executive will ensure that a Register of Interests is established to record formally declarations of interests of Board or Committee members. In particular the Register will include details of all directorships and other relevant and material interests (as defined in SO 8.1.2) which have been declared by both executive and non-executive Board of Directors members.

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

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

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

8.3.1 Definition of terms used in interpreting 'Pecuniary' interest

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

- (i) "spouse" shall include any person who lives with another person in the same household (and any pecuniary interest of one

spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse);

(ii) "contract" shall include any proposed contract or other course of dealing.

(iii) "Pecuniary interest"

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

a) he / she, or a nominee of him / her, is a member of a company or other body (not being a public body), with which the contract is made, or to be made or which has a direct pecuniary interest in the same, or

b) he / she is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.

iv) Exception to Pecuniary interests

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

a) neither he / she or any person connected with him / her has any beneficial interest in the securities of a company of which he/she or such person appears as a member, or

b) any interest that he / she or any person connected with him/her may have in the contract is so remote or insignificant that it cannot reasonably be regarded as likely to influence him/her in relation to considering or voting on that contract, or

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

Provided however, that where paragraph (c) above applies the person shall nevertheless be obliged to disclose / declare their interest in accordance with Standing Order 8.1.2 (b).

8.3.2 Exclusion in proceedings of the Board of Directors

(i) Subject to the following provisions of this Standing Order, if the Chairman or a member of the Board of Directors has any

pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Board of Directors at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

- (ii) The Secretary of State may, subject to such conditions as he/she may think fit to impose, remove any disability imposed by this Standing Order in any case in which it appears to him/her in the interests of the National Health Service that the disability should be removed. (See SO 8.3.3 on the 'Waiver' which has been approved by the Secretary of State for Health).
- (iii) The Board of Directors may exclude the Chairman or a member of the Board from a meeting of the Board while any contract, proposed contract or other matter in which he/she has a pecuniary interest is under consideration.
- (iv) Any remuneration, compensation or allowance payable to the Chairman or a Member by virtue of paragraph 11 of Schedule 5A to the National Health Service Act 1977 (pay and allowances) shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- (v) This Standing Order applies to a committee or sub-committee and to a joint committee or sub-committee as it applies to the Trust and applies to a member of any such committee or sub-committee (whether or not he/she is also a member of the Trust) as it applies to a member of the Trust.

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

- (a) Power of the Secretary of State to make waivers

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

- (b) Definition of 'Chairman' for the purpose of interpreting this waiver

For the purposes of paragraph 8.3.3.(c) (below), the “relevant chairman” is –

at a meeting of the Trust, the Chairman of that Trust;

at a meeting of a Committee:

- in a case where the member in question is the Chairman of that Committee, the Chairman of the Trust;
- in the case of any other member, the Chairman of that Committee.

(c) Application of waiver

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

It will apply to:

- A member of the Mid Essex Hospital Services NHS Trust (“the Trust”), who is a healthcare professional, within the meaning of regulation 5(5) of the Regulations, and who is providing or performing, or assisting in the provision or performance, of –
 - services under the National Health Service Act 1977; or
 - services in connection with a pilot scheme under the National Health Service Act 1997;for the benefit of persons for whom the Trust is responsible.
- Where the ‘pecuniary interest’ of the member in the matter which is the subject of consideration at a meeting at which he is present:-
 - arises by reason only of the member’s role as such a professional providing or performing, or assisting in the provision or performance of, those services to those persons;
 - has been declared by the relevant chairman as an interest which cannot reasonably be regarded as an interest more substantial than that of the majority of other persons who:–
 - are members of the same profession as the member in question,

are providing or performing, or assisting in the provision or performance of, such of those services as he provides or performs, or assists in the provision or performance of, for the benefit of persons for whom the Trust is responsible.

- (d) Conditions which apply to the waiver and the removal of having a pecuniary interest

The removal is subject to the following conditions:

- the member must disclose his/her interest as soon as practicable after the commencement of the meeting and this must be recorded in the minutes;
- the relevant chairman must consult the Chief Executive before making a declaration in relation to the member in question pursuant to paragraph 8.3.3 (b) above, except where that member is the Chief Executive;

- in the case of a meeting of the Trust:

the member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded;

may not vote on any question with respect to it.

- in the case of a meeting of the Committee:

the member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded;

may vote on any question with respect to it; but

the resolution which is subject to the vote must comprise a recommendation to, and be referred for approval by, the Board of Directors.

8.4 Standards of Business Conduct

8.4.1 Trust Policy and National Guidance

All Trust staff and members must comply with the national guidance contained in HSG(93)5 on 'Standards of Business Conduct for NHS staff' and with any Trust policy derived therefrom.

8.4.2 Interest of Officers in Contracts

- i) Any officer or employee of the Trust who comes to know that the Trust has entered into or proposes to enter into a contract in which he / she or any person connected with him / her (as defined in SO 8.3) has any pecuniary interest, direct or indirect, the Officer shall declare their interest by giving notice in writing of such fact to the Chief Executive or Trust's Company Secretary as soon as practicable.
- ii) An Officer should also declare to the Chief Executive any other employment or business or other relationship of his / her, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.
- iii) The Trust will require interests, employment or relationships so declared to be entered in a register of interests of staff.

8.4.3 Canvassing of and Recommendations by Members in Relation to Appointments

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

8.4.4 Relatives of Members or Officers

- i) Candidates for any staff appointment under the Trust shall, when making an application, disclose in writing to the Trust whether they are related to any member or the holder of any office under the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him liable to instant dismissal.
- ii) The Chairman and every member and officer of the Trust shall disclose to the Board of Directors any relationship between himself and a candidate of whose candidature that member or officer is aware. It shall be the duty of the Chief Executive to report to the Board of Directors any such disclosure made.
- iii) On appointment, members (and prior to acceptance of an appointment in the case of Executive Directors) should disclose

to the Trust whether they are related to any other member or holder of any office under the Trust.

- iv) Where the relationship to a member of the Trust is disclosed, the Standing Order headed 'Disability of Chairman and members in proceedings on account of pecuniary interest' (SO 8) shall apply.

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

9.1 Custody of Seal

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

9.2 Sealing of Documents

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

9.3 Register of Sealing

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

9.4 Signature of documents

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

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

10. MISCELLANEOUS (see overlap with SFI No. 9.3)

10.1 Joint Finance Arrangements

The Board may confirm contracts to purchase from a voluntary organisation or a local authority using its powers under Section 28A of the NHS Act 1977. The Board may confirm contracts to transfer

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

TERMS OF REFERENCE

1. MEMBERSHIP

MEMBERS

Non-Executive Director (Chair)

All other Non-Executive Directors, excluding the Chairman (x1 to attend in addition to the Chair)

ATTENDEES (by invitation only)

Representative of the Trust's Internal Auditors

Representative of the Trust's External Auditors

Representative of the Local Counter Fraud Service

Chief Executive

Trust Secretary

Chief Finance Officer

Deputy Director of Finance

Head of Finance- Accounting and Controls

- 1.1 The Committee shall be appointed by the Board from amongst the Non-Executive Directors of the Trust and shall consist of not less than three members. One of the members will be appointed Chair of the Committee by the Board. The Chairman of the organisation shall not be a member of the Committee.
- 1.2 The Chief Finance Officer and appropriate internal and external Audit representatives shall normally attend meetings. However, at least once a year the Committee should meet privately with the internal and external Auditors.
- 1.3 The Chief Executive and other Executive Directors should be invited to attend when the Committee is discussing areas of risk or operation that are the responsibility of that Director.
- 1.4 The Chief Executive should be invited to attend, at least annually, to discuss with the Committee the process for assurance that supports the Statement on Internal Control, the draft internal audit plan and the annual accounts.
- 1.5 The Trust Secretary shall be Secretary to the Committee and shall attend to take minutes of the meeting and provide appropriate support to the Chairman and Committee members.

2. DELEGATED POWERS (AUTHORITY)

- 2.1 The Committee is authorised by the Board to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to co-operate with any request made by the Committee.
- 2.2 The Committee is authorised by the Board to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary.

3. QUORUM

- 3.1 A quorum for a meeting of the Committee shall be two Non-Executive Directors plus one other member or attendee by invitation from the membership listed above.

4. ACCOUNTABILITY

- 4.1 The Committee independently monitors, reviews and reports to the Board on the process of Governance and where appropriate facilitates and supports, through its independence, the attainment of effective processes.
- 4.2 The Chief Finance Officer is the Executive Lead for the Committee.

5. DUTIES

5.1 Governance, Risk Management and Internal Control

- 5.1.1 The Committee shall review the establishment and maintenance of an effective system of integrated governance, risk management and internal control, across the whole of the organisation's activities (both clinical and non-clinical), that supports the achievement of the organisation's objectives. In particular, the Committee will review the adequacy and effectiveness of:

- all risk and control related disclosure statements (in particular the Annual Governance Statement) together with any accompanying Head of Internal Audit statement, external audit opinion or other appropriate independent assurances, prior to endorsement by the Board
- the underlying assurance processes that indicate the degree of the achievement of corporate objectives, the effectiveness of the management of principal risks and the appropriateness of the above disclosure statements
- the policies for ensuring compliance with relevant regulatory, legal and code of conduct requirements
- the policies and procedures for all work related to fraud and corruption as set out in Secretary of State Directions and as set out by NHS Protect.

- 5.1.2 In carrying out this work the Committee will primarily utilise the work of Internal Audit, External Audit and the Clinical Audit function of the Trust, and other assurance functions, but will not be limited to these audit functions. It will also seek reports and assurances from the other Committees of the Trust, directors and managers as appropriate, concentrating on the adequacy of the overarching systems of integrated governance, risk management and internal control, together with indicators of their effectiveness.

- 5.1.3 This will be evidenced through the Committee's use of an effective Assurance Framework to guide its work and that of the audit and assurance functions that report to it.

5.2 Internal Audit

- 5.2.1 The Committee shall ensure that there is an effective internal audit function established by management that meets mandatory NHS Public Sector

Standards and provides appropriate independent assurance to the Audit Committee, Chief Executive and Board.

This will be achieved by:

- consideration of the provision of the Internal Audit service, the cost of the audit and any questions of resignation and dismissal
- review and approval of the Internal Audit strategy, operational plan and more detailed programme of work, ensuring that this is consistent with the audit needs of the organization as identified in the Assurance Framework
- consideration of the major findings of internal audit work (and management's response), and ensure co-ordination between the Internal and External Auditors to optimise audit resources
- ensuring that the Internal Audit function is adequately resourced and has appropriate standing within the organisation
- annual review of the effectiveness of internal audit

5.3 External Audit

5.3.1 The Committee shall review the work and findings of the External Auditor and consider the implications and management's responses to their work. This will be achieved by:

- consideration of the appointment and performance of the External Auditor.
- discussion and agreement with the External Auditor, before the audit commences, of the nature and scope of the audit as set out in the Annual Plan.
- discussion with the External Auditors of their local evaluation of audit risks and assessment of the Trust and associated impact on the audit fee
- review all External Audit reports, including agreement of the annual audit letter before submission to the Board and any work carried outside the annual audit plan, together with the appropriateness of management responses

5.4 Other Assurance Functions

5.4.1 The Committee shall review the findings and working of other significant assurance functions, both internal and external to the organisation, and consider the implications to the governance of the organisation. These will include, but will not be limited to, any reviews by Department of Health Arms Length Bodies or Regulators/Inspectors (e.g. Care Quality Commission, NHS Litigation Authority, etc.), professional bodies with responsibility for the performance of staff or functions (e.g. Royal Colleges, accreditation bodies, etc.)

5.4.2 In addition, the Committee will review the work of other committees within the organisation, whose work can provide relevant assurance to the Committee's own scope of work. This will particularly include the Patient Safety and Quality Committee and Finance and Performance Committee, any other Committee reporting directly to the Board and any Governance Groups or committees that are established supporting them. In reviewing the work of the Patient Safety and Quality Committee, and issues around clinical risk management, the Audit Committee will wish to satisfy itself on the assurance that can be gained from the clinical audit function.

- 5.4.3 As required, the Committee shall request and review reports and positive assurances from directors and managers on the overall arrangements for governance, risk management and internal control. They may also request specific reports from individual functions within the organisation (e.g. clinical audit) as they may be appropriate to the overall arrangements.
- 5.4.4 The Committee shall satisfy itself that the organization has adequate arrangements in place for countering fraud and shall review the outcomes of counter fraud work

5.5 Financial Reporting

- 5.5.1 The Audit Committee shall monitor the integrity of the financial statements of the Trust and any formal announcements relating to the Trust's financial performance
- 5.5.2 The Committee should ensure that the systems for financial reporting to the Board, including those of budgetary control, are subject to review as to completeness and accuracy of the information supplied to the Board
- 5.5.3 The Committee shall review the Annual Report and Financial Statements before submission to the Board, focusing particularly on:
- the wording in the Annual Governance Statement and other disclosures relevant to the Terms of Reference of the Committee
 - changes in, and compliance with, accounting policies and practices
 - unadjusted mis-statements in the financial statements
 - significant judgments in preparation of the financial statements
 - significant adjustments resulting from the audit
 - letter of representation
 - qualitative aspects of financial reporting

6. REPORTING ARRANGEMENTS

- 6.1 The minutes of Committee meetings shall be formally recorded by the Trust Secretary and submitted to the Board. The Chair of the Committee shall draw to the attention of the Board any issues that require disclosure to the full Board, or require executive action.
- 6.2 The Committee will report to the Board annually on its work in support of the Annual Governance Statement, specifically commenting on the fitness for purpose of the Assurance Framework, the completeness and embeddedness of risk management in the organisation, the integration of governance arrangements and the robustness of the process of self-assessment against the Care Quality Commission Essential Standards of Quality and Safety and the appropriateness of the evidence compiled to support such assessments. The Committee will also report on the robustness of the process behind the Quality Accounts. The Committee will also produce an Annual Audit Committee Report for the Board's consideration.
- 6.3 The Committee will receive reports in accordance with the approved annual schedule of reporting.

- 6.4 The Committee shall be supported administratively by the Trust secretary whose duties in this respect will include
- ensuring agreement of agendas with the Chair and attendees and collation of papers
 - taking the minutes
 - keeping a record of matters arising and issues to be carried forward
 - advising the Committee on pertinent issues and areas
 - enabling the development and training of Committee members

7. FREQUENCY

- 7.1 Meetings shall be held as required and in any event not less than four times a year in order to allow it to discharge all of its responsibilities. The External Auditor or Head of Internal Audit may request a meeting if they consider that one is necessary.
- 7.2 Committee members are expected to attend a minimum of three meetings per year.

8. REVIEW

- 8.1 The Committee should review the effectiveness of meetings and its function as a forum continually throughout the year with a formal review undertaken once yearly. It will do this by way of a yearly Committee Review process, the outcomes of which will be submitted to the Board and Committee members.
- 8.2 The Trust Secretary will review the Committee's compliance with its terms of reference on an annual basis in accordance with the Risk Management Strategy and Policy.
- 8.3 These terms of reference will be reviewed on an annual basis by the Board.

REMUNERATION AND NOMINATIONS COMMITTEE

TERMS OF REFERENCE

1 MEMBERSHIP

VOTING MEMBERS

Non-Executive Director (Chair)
All Non-Executive Directors

ATTENDEES (by invitation only)

Chief Executive
Trust Secretary
Director of HR

2. DELEGATED POWERS/ ROLE OF THE COMMITTEE

2.1 The Committee has delegated Board responsibility for setting remuneration for all executive directors, including pension rights and any compensation payments. The Committee should also recommend and monitor the level and structure of remuneration for senior management.

2.2 The Committee is responsible for the nomination of new Executive Directors.

2.3 The Committee has the authority to make decisions in respect of the above without further ratification at Board level, subject to the appropriate consultation requirements being undertaken.

2.4 The Committee may:

2.4.1 Seek any information it requires from any employee of the Trust in order to perform its duties.

2.4.2 Obtain, at the Trust's expense, outside legal or other professional advice on any matter within its terms of reference, and

2.4.3 Call any employee to be questioned at a meeting of the Committee as and when required.

3. QUORUM

3.1 The quorum for these meetings will be three non-executive members, including the chairman. The Chairman will seek the views, where possible, of any non executive director who is unable to attend.

4. ACCOUNTABILITY

4.1 The Committee is accountable to the Board.

4.2 The Chairman of the Trust is the Committee Chair and lead officer for the Committee.

4.3 The Chairman of the Trust may choose to delegate Chairmanship of the Committee to an independent Non-Executive Director.

5. DUTIES

5.1 In relation to Nomination the Committee shall:

5.1.1 Regularly review the structure, size and composition (including the skills, knowledge and experience) required of Executive Directors of the Board compared to its current position and make recommendations to the Board with regard to any changes

5.1.2 Give full consideration to succession planning for all Executive Directors in the course of its work, taking into account the challenges and opportunities facing the Trust, and what skills and expertise are therefore needed on the Board of Directors in the future

5.1.3 Before any appointment is made by the Board of Directors, evaluate the balance of skills, knowledge and experience on the Board, and, in the light of this evaluation prepare a description of the role and capabilities required for a particular executive appointment. In identifying suitable candidates the committee shall:

5.1.3.1 Use open advertising or the services of external advisers to facilitate the search.

5.1.3.2 Consider candidates from a wide range of backgrounds, and

5.1.3.3 Consider candidates on merit and against objective criteria, taking care that appointees have enough time available to devote to the position.

5.1.4 Review the job descriptions of the Executive Director role as required.

5.1.5 Keep under review the leadership needs of the organisation, with a view to ensuring the continued ability of the organisation to deliver services effectively.

5.1.6 Keep up to date and fully informed about strategic issues and commercial changes affecting the Trust and the environment in which it operates.

5.1.7 Review annually the performance evaluation process for Executive Directors ensuring it is fit for purpose.

5.2 The Committee shall also make recommendations to the Board of Directors concerning:

5.2.1 Formulating plans for succession for Executive Directors.

5.2.2 Membership of the Audit and Remuneration and Nomination Committees, in consultation with the Chairs of those Committees.

5.2.3 Any matters relating to the continuation in office of any Executive Director at any time including the suspension or termination of service.

5.2.4 The proper arrangements for the further development of Executive Directors.

5.3 The committee will ensure that the full range of eligibility checks have been performed and references taken and found to be satisfactory.

In relation to remuneration the Committee shall:

5.4 Determine and agree with the board the framework or broad policy for the remuneration, allowances and terms of service of the Trust's Executive Directors and other senior staff. No Executive Director or senior staff member shall be involved in any decisions as to their own remuneration.

5.5 In determining such policy, take into account all factors which it deems necessary. The objective of such policy shall be to ensure that Executive Directors of the Trust are provided with appropriate incentives to encourage enhanced performance and are, in a fair and responsible manner, rewarded for their individual contributions to the success of the Trust, having proper regard for any national arrangements where appropriate.

5.6 Review the on-going appropriateness and relevance of the Remuneration Policy.

5.7.1 Monitor and oversee the evaluation of the performance of the Chief Executive, other individual Executive Directors and senior staff members.

5.7.2 Approve the design of, determine targets for, and set upper limits of any performance related pay schemes where operated by the Trust and approve the total annual payments made under such schemes.

5.7.3 Ensure that contractual terms on termination, and any payments made, are fair to the individual, and the NHS Trust, aligned with the interests of the patients, that failure is not rewarded and that the duty to mitigate loss is fully recognised, in line with national guidance where appropriate.

5.7.4 Within the terms of the agreed policy and in consultation with the Chairman and/or Chief Executive as appropriate, determine the total individual remuneration package of each Executive Director or other senior staff member including bonuses, incentive payments and other awards.

5.7.5 Agree the policy for authorising claims for Expenses from the Executive Directors and senior staff members, and

5.7.6 Be exclusively responsible for establishing the selection criteria, selecting, appointing and setting the terms of reference for any remuneration consultants who advise the Committee, which should be at least every three years or when considering making large changes: and to obtain reliable, up-to-date information about remuneration in other acute Trusts.

6. REPORTING ARRANGEMENTS

- 6.1 The committee Chairman shall report formally to the board of directors on its proceedings after each meeting on all matters within its duties and responsibilities and through reports submitted to the Board which have undergone the Committee's scrutiny.
- 6.2 The committee shall make whatever recommendations to the board of directors it deems appropriate on any area within its remit where action or improvement is needed.

7. FREQUENCY

- 7.1 The Committee will meet at least twice each year and as required.
- 7.2 Committee members are expected to attend a minimum of one meeting per year.

8. REVIEW

- 8.1 The Committee should review the effectiveness of meetings and its function as a forum continually throughout the year with a formal review undertaken once yearly. It will do this by way of a yearly Committee Review process, the outcomes of which will be submitted to the Board and Committee members.
- 8.2 The Trust Secretary will review the Committee's compliance with its terms of reference on an annual basis in accordance with the Risk Management Strategy and Policy.
- 8.3 These Terms of Reference will be reviewed on an annual basis by the Board.

Charitable Funds Committee

TERMS OF REFERENCE

1. MEMBERSHIP

VOTING MEMBERS

Non-Executive Director (Chair)

All other voting Board Directors

NON-VOTING MEMBERS

Up to 6 Other Advisers as appointed by Director of Finance or Chief Executive to include at least one member of the Patients Council

2. DUTIES/ DELEGATED BOARD POWERS

2.1. The Board has resolved to establish a Committee of the Board, known as the Charitable Funds Committee, (the Committee) reporting to the Board.

The committee shall have the following terms of reference and powers and be subject to such conditions, such as reporting back to the Board, as the Board shall decide and shall act in accordance with any legislation and regulation or direction applicable to the management of charitable funds.

The committee has no executive powers other than those specifically delegated in these terms of reference

2.2 The Committee shall have the following delegated powers in relation to funds donated to the Trust for charitable purposes (charitable funds). These shall be exercised in accordance with the Standing Financial Instructions for such funds:

- To invest charitable funds for the purchase of such stock, funds, shares, securities or other investments of whatsoever nature as the Committee shall at its absolute discretion think fit, subject to the statutory requirements for charities within the NHS, and the Trust Board's, decision to avoid investments in tobacco or tobacco related products.
- Money may be left invested on deposit at a bank on such terms in such amount and for such a period as shall for the time being be permitted in law.
- The Committee shall permit any investments to be held by any trust corporation as custodian trustees thereof and may also permit any securities transferable by delivery to be held on the account of the charitable trust funds and Committee may make such arrangements as it thinks fit for the collection of the income of such investments or securities.
- The role of the Committee is to oversee the management of the affairs of the charitable fund. This is a delegated duty carried out on behalf of the Mid Essex Hospital Services NHS Trust (MEHT) which is the sole corporate trustee of the charity. The role is to ensure that the charity acts within the terms of its declaration of trust and appropriate legislation and to provide information to the Audit Committee to enable it to provide assurance to the

Board that the charity is properly governed and well managed across the full range of activities

- The Committee will ensure the affairs of the charitable fund are managed within the terms of its declaration of Trust, and appropriate legislation.
- To manage the investment of funds in accordance with the Trustee Act 2000 and if necessary to appoint fund managers to act on its behalf subject to Board approval.
- To ensure funding decisions are appropriate and are consistent with the objectives of MEHT, to ensure such funding provides added value and benefit to the patients and staff of the Trust, above those afforded by the Exchequer funds.
- To receive regular reports on the performance of the charitable fundraising activities and charitable expenditure.
- To implement as appropriate, procedures and policies to ensure that accounting systems are robust, donations received and coded as instructed and that all expenditure is reasonable and clinically and ethically appropriate.
- The minutes of each meeting of the charitable funds committee shall be reported to, and approved by, the next meeting of the Board of Directors in order to discharge the Board's role as corporate trustee of the charity.
- To recommend approval of the annual report and accounts to the Board and to ensure that relevant information is disclosed.
- Ensure that the charitable funds committee membership is refreshed and that undue reliance is not placed on particular individuals when undertaking the responsibilities of the charitable funds committee.

3. QUORUM, ATTENDANCE AND CHAIR OF THE COMMITTEE

- 3.1 Three members shall form a quorum (with a requirement that one member must be an Executive Director and one other a Non-Executive Director) and a Committee meeting at which the quorum is present shall be competent to exercise all or any of the powers or discretions invested in the Committee. The Chair of the Committee shall be one of the Non-Executive directors selected by the board. In their absence the chair shall be taken by another Non-Executive director.
- 3.2 The meetings of the Committee shall be open to observation by members of the public but at the discretion of the Chairman the public may be excluded in the event of the Committee needing to discuss matters of a confidential nature.
- 3.3 Committee Members are expected to attend at least two meetings per year

4. ACCOUNTABILITY

- 4.1 The Trust, as Trustee of charitable funds donated to the Trust, shall appoint a Charitable Funds Committee (the Committee) of not less than five persons to

exercise all or any of the duties and powers of the Trust as a Registered Charity.

- 4.2 The Committee is accountable to the corporate trustee as represented by its agents (voting Directors) sitting on the Trust Board.

5. PROCEDURE

- 5.1 The Chairman may at any time with two members jointly cause the Secretary to convene a meeting of the Committee.
- 5.2 The Chairman shall preside at all meetings of the Committee provided that at any meeting of the Committee the Chairman is not present the Committee may choose one of their members present to be Chairman for that meeting as above.
- 5.3 Questions arising from that meeting will be decided by a majority vote (each member present having one vote) in case of equality of votes the Chairman shall have a second and casting vote.
- 5.4 The majority shall be a simple majority.
- 5.5 Notice of every meeting shall be sent by the Secretary to each member other than those that are not in the UK at the time. Any notice posted five clear days before the date of the meeting shall be deemed to have been duly served.
- 5.6 The Committee shall cause proper minutes to be kept, any such minutes of any meeting of the Committee shall be signed by the Chairman at the next succeeding meeting which will then be regarded as conclusive evidence of the matters stated in such Committee Minutes. The minutes of every meeting will be submitted to the Board.
- 5.7 The Committee shall call for punctual accounts to be kept of all the Charitable Funds and all income arising there from and all payments made there under and at least once in the year prepared statements of accounts and a balance sheet for the previous year. Such accounts to be audited each year by a professional auditor appointed by the Secretary of State. An Annual Report together with the statements of account and balance sheet shall be submitted each year to the Trust Board.
- 5.8 The Charitable Funds and the income thereof shall be used solely for the purposes of these funds and no member of the Committee shall take or hold any interest or receive any remuneration or to be interested in the supply of goods or services at cost to the said funds in any circumstances whatsoever provided that this sub-clause shall not prevent such members from holding any remunerated position in the employment of the Trust.

6. REPORTING ARRANGEMENTS

- 6.1 The Committee will report directly to the Trust Board.

7. FREQUENCY

- 7.1 Meetings will be held quarterly.

8. AUTHORITY

The committee is authorised by the board of directors to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee, and all employees are directed to co-operate with any request made by the committee.

The committee is authorised by the board of directors to obtain reasonable external legal or other independent professional advice and to secure the attendance of outsiders with relevant experience or expertise, if it considers this to be necessary.

9 REVIEW

- 9.1 The Committee should review the effectiveness of meetings and its function as a forum continually throughout the year with a formal review undertaken once yearly. It will do this by way of a yearly Committee Review process, the outcomes of which will be submitted to the Board and Committee members.
- 9.2 The Trust Secretary will review the Committee's compliance with its terms of reference on an annual basis in accordance with the Risk Management Strategy and Policy.
- 9.3 These terms of reference will be reviewed on an annual basis by the Board.