

## Standing Financial Instructions

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## Contents

Foreword .....	3
1.0 Introduction.....	4
2.0 Audit.....	7
3.0 Allocations, Business Planning, Budgets, Budgetary Control and Monitoring.....	10
4.0 Annual Accounts and Reports .....	13
5.0 Bank and GBS Accounts .....	13
6.0 Income, Fees and Charges and security of cash, cheques and other negotiable instruments .....	14
7.0 NHS Contracts for provision of Services .....	16
8.0 Terms of Service and Payment of Board Members and Employees.....	17
9.0 Non-Pay Expenditure .....	19
10.0 External Borrowing and Investments .....	23
11.0 Capital Investment, Private Financing, Fixed Asset Registers .....	23
and Security of Assets.....	23
12.0 Stores and receipt of Goods .....	26
13.0 Disposal and Condemnations, Losses and Special Payments .....	27
14.0 Information Technology .....	29
15.0 Patient’s Property .....	31
16.0 Funds held on Trust.....	31
17.0 Retention of records .....	32
18.0 Risk management and insurance .....	32
19.0 Research and development.....	33
20.0 Acceptance of gifts by staff, standard of business conduct.....	34
21.0 Tendering and contracting procedure.....	34
APPENDIX 1 .....	43
Detailed tendering procedures .....	43

## Foreword

The National Health Service Act 2006 as amended by Health and Social Care Act 2012 and the Foundation Trust's Constitution require that all the powers of the Foundation Trust are exercisable by the Board on its behalf. Standing Orders, Reservation of Powers to the Board and Scheme of Delegation, together with these Standing Financial Instructions and such other locally generated rules and instructions, including financial procedure notes, as may exist for use within the Foundation Trust provide a regulatory and business framework for the conduct of the Board. Collectively these documents must comprehensively cover all aspects of financial management and control. In effect, they set the business rules which Board members and officers must follow when taking action on behalf of the Board.

## 1.0 Introduction

### 1.1 General

- 1.1.1 These Standing Financial Instructions detail the financial responsibilities, policies and procedures adopted by the Foundation Trust. They are designed to ensure that the Foundation Trust's financial transactions are carried out in accordance with the law and Government policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the Reservation of Powers to the Board and Scheme of Delegation adopted by the Foundation Trust. As stated in Standing Order No.4.7, they shall have effect as if incorporated in the Standing Orders of the Foundation Trust.
- 1.1.2 These Standing Financial Instructions identify the financial responsibilities which apply to everyone working for the Foundation Trust and its constituent organisations including Trading Units. They do not provide detailed procedural advice and should be read in conjunction with the detailed departmental and financial procedure notes. All financial procedures must be approved by the Director of Finance.
- 1.1.3 Should any difficulties arise regarding the interpretation or application of any of the Standing Financial Instructions then the advice of the Director of Finance must be sought before acting. The user of these Standing Financial Instructions should also be familiar with and comply with the provisions of the Foundation Trust's Standing Orders.
- 1.1.4 **The failure to comply with Standing Financial Instructions and Standing Orders can in certain circumstances be regarded as a disciplinary matter which could result in dismissal.**
- 1.1.5 **Overriding Standing Financial Instructions** – If for any reason these Standing Financial Instructions 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 Audit and Assurance Committee for referring action or ratification. The Board and all staff have a duty to disclose any non-compliance with these Standing Financial Instructions to the Director of Finance as soon as possible.
- 1.1.6 **Outsourced Services** – Where any operation is carried out on the Foundation Trust's behalf by NHS Shared Business Services or any other Board approved outsourced service provider, detailed procedures will be the responsibility of such a provider. The following are the principal areas for which some or all processes are currently the responsibility of such a provider:
- Accounts payable;
  - Accounts receivable;
  - Treasury and cash;
  - General ledger;
  - VAT services;
  - IT system administration services.

These may be subject to variation.

However, the ultimate responsibility lies with the Foundation Trust to ensure prior to award or renewal of any contract, that they are satisfied that the detailed procedures exist and are sufficiently robust through its contract management processes.

### 1.1.7 Terminology

Any expression to which a meaning is given in Health Service Acts or in the Financial Regulations made under the Acts shall have the same meaning in these Standing Financial Instructions and in addition:

- (a) 'Board' means the Board of the Foundation Trust;
- (b) '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 Foundation Trust;
- (c) 'Budget Holder' means the director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation;
- (d) 'Chief Executive' means the Chief Executive Officer of the Foundation Trust;
- (e) 'Director of Finance' means the Chief Financial Officer of the Foundation Trust;
- (f) 'Funds held on trust' shall mean those funds which the Foundation 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 and S.51 of the National Health Service Act 2006. Such funds may or may not be charitable.
- (g) 'Foundation Trust' means the Bradford Teaching Hospitals NHS Foundation Trust.
- (h) 'Monitor' means the body corporate known as Monitor, as provided by section 61 of the Health and Social Care Act 2012.
- (i) 'NHSI' means the body NHS Improvement

Wherever the title Chief Executive, Director of Finance or other nominated officer is used in these instructions, it shall be deemed to include such other directors or employees who have been duly authorised to represent them.

Wherever the term 'officer' is used and where the context permits it shall be deemed to include employees of third parties contracted to the Foundation Trust when acting on behalf of the Foundation Trust.

All references to the masculine gender will be deemed to apply equally to the feminine gender when used with these instructions.

## **1.2 Responsibilities and Delegation**

### **1.2.1 The Board**

The Board exercises financial supervision and control by:

- (a) formulating the financial strategy;
- (b) requiring the submission and approval of budgets within approved allocations/overall income;
- (c) defining and approving essential features in respect of important procedures and financial systems (including the need to obtain value for money);
- (d) defining specific responsibilities placed on the Board and officers as indicated in the Scheme of Delegation document.

1.2.2 The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These are set out in the 'Reservation of Powers to the Board' document. All other powers have been delegated to such other committees as the Foundation Trust has established.

1.2.3 The Board will delegate responsibility for the performance of its functions in accordance with the Scheme of Delegation document adopted by the Foundation Trust.

### **1.2.4 The Chief Executive and the Director of Finance**

Within the Standing Financial Instructions it is acknowledged that the Chief Executive is ultimately accountable to the Board and, as accountable officer, to Monitor, for ensuring that the Board meets its obligation to perform its functions within the available financial resources. The Chief Executive has overall executive responsibility for the Foundation Trust's activities, is responsible to the Chairman and the Board for ensuring that its financial obligations and targets are met and has overall responsibility for the Foundation Trust's system of internal control. The Chief Executive and Director of Finance will, as far as possible, delegate their detailed responsibilities, but they remain accountable for financial control.

1.2.5 It is a duty of the Chief Executive to ensure that the Board and officers and all new appointees are notified of, and put in a position to understand, their responsibilities within these Instructions.

### **1.2.6 The Director of Finance**

The Director of Finance is responsible for:

- (a) implementing the Foundation Trust's financial policies and co-ordinating any corrective action necessary to further these policies;
- (b) maintaining an effective system of internal financial control, including ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions;

- (c) ensuring that sufficient records are maintained to show and explain the Foundation Trust's transactions, in order to disclose, with reasonable accuracy, the financial position of the Foundation Trust at any time;

and, without prejudice to any other functions of the Foundation Trust, and officers of the Foundation Trust, the duties of the Director of Finance include:

- (d) the provision of financial advice to the Board and officers;
- (e) the design, implementation and supervision of systems of internal financial control;
- (f) the preparation and maintenance of such accounts, certificates, estimates, records and reports as the Foundation Trust may require for the purpose of carrying out its statutory duties.

### 1.2.7 **Board Members and Officers**

All Board members and officers, severally and collectively, are responsible for:

- (a) the security of the property of the Foundation Trust;
- (b) avoiding loss;
- (c) exercising economy and efficiency in the use of resources;
- (d) conforming with the requirements of Standing Orders, Standing Financial Instructions, Financial Procedures and the Scheme of Delegation.

### 1.2.8 **Contractors and their Employees**

Any contractor or employee of a contractor, who is empowered by the Foundation Trust to commit the Foundation Trust to expenditure or who is authorised to obtain income, shall be covered by these instructions. It is the responsibility of the Chief Executive to ensure that such persons are made aware of this.

- 1.2.9 For the Board and any officers who carry out a financial function, the form in which financial records are kept and the manner in which the Board and such officers discharge their duties must be to the satisfaction of the Director of Finance.

## **2.0 Audit**

### **2.1 Audit and Assurance Committee**

- 2.1.1 In accordance with Standing Orders, the Board shall formally establish an Audit and Assurance Committee, with clearly defined terms of reference, attached at Annex 6 to the Standing Orders, and following guidance from the NHS Audit Committee Handbook (2011) and the Audit Code for NHS Foundation Trusts published by Monitor, which will provide an independent and objective view of internal control.

- 2.1.2 The Board shall satisfy itself that at least one member of the Audit Committee has recent and relevant financial experience.
- 2.1.3 Where the Audit and Assurance Committee considers there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters that the Audit and Assurance Committee wishes to raise, the chairman of the Audit and Assurance Committee should raise the matter at a full meeting of the Board (with the Director of Finance in the first instance). Exceptionally, the matter may need to be referred to Monitor.
- 2.1.4 It is the responsibility of the Director of Finance to ensure an adequate internal audit service is provided, and the Audit and Assurance Committee shall be involved in the selection process when/if an internal audit service provider is changed.

## 2.2 **Fraud and Corruption**

- 2.2.1 In line with their responsibilities, the Chief Executive and Director of Finance shall monitor and ensure compliance with Directions issued by the Secretary of State for Health on fraud and corruption.
- 2.2.2 The Foundation Trust shall, via the Internal Audit function, have access to a suitable person to carry out the duties of the Local Counter Fraud Specialist as specified by the NHS Counter Fraud and Corruption Manual and guidance.
- 2.2.3 The Local Counter Fraud Specialist shall provide regular reports and advice to the Foundation Trust via the Audit and Assurance Committee and shall work with staff in NHS Protect (previously known as the Counter Fraud and Security Management Services) in accordance with the NHS Counter Fraud and Corruption Manual.
- 2.2.4 The Local Counter Fraud Specialist will provide a written annual report, on counter fraud work within the Foundation Trust to the Audit and Assurance Committee.

## 2.3 **Director of Finance**

- 2.3.1 The Director of Finance is responsible for:
- (a) ensuring there are arrangements to review, evaluate and report on the effectiveness of internal financial control including the establishment of an effective internal audit function;
  - (b) ensuring that the internal audit is adequate and meets the NHS mandatory audit standards;
  - (c) deciding at what stage to involve the police in cases of misappropriation and other irregularities not involving fraud or corruption;
  - (d) ensuring that an annual internal audit report is prepared for the consideration of the Audit and Assurance Committee and, as appropriate, the Board. The report must cover:
    - (i) a clear opinion on the effectiveness of internal control;
    - (ii) major internal financial control weaknesses discovered;

- (iii) progress on the implementation of internal audit recommendations;
  - (iv) progress against plan over the previous year;
  - (v) strategic audit plan covering the coming three years;
  - (vi) a detailed plan for the coming year.
- (e) ensuring there is an annual review of the continued appropriateness of the spend commitment and invoice authorisation limits of designated authorising officers within the Foundation Trust.
- 2.3.2 The Director of Finance and designated auditors are entitled without necessarily giving prior notice to require and receive:
- (a) access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;
  - (b) access at all reasonable times to any land, premises or Board member or officer of the Foundation Trust;
  - (c) the production of any cash, stores or other property of the Foundation Trust under the control of a Board member or officer;
  - (d) explanations concerning any matter under investigation.

## 2.4 **Role of Internal Audit**

- 2.4.1 Internal Audit will review, appraise and report upon:
- 2.4.2 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property or any suspected irregularity in the exercise of any function of a pecuniary nature, the Director of Finance must be notified immediately.
- 2.4.3 The Head of Internal Audit will normally attend Audit and Assurance Committee meetings and has a right of access to all Audit and Assurance Committee members, the Chairman and the Chief Executive of the Foundation Trust.
- 2.4.4 The Head of Internal Audit shall be accountable to the Director of Finance. The reporting system for internal audit shall be agreed between the Director of Finance, the Audit and Assurance Committee and the Head of Internal Audit. The agreement shall be in writing and shall comply with the guidance on reporting contained in the NHS Internal Audit Standards. The reporting system shall be reviewed at least every three years.
- 2.4.5 Managers in receipt of audit reports referred to them have a duty to take appropriate remedial action within the timescales specified in the report. The Director of Finance shall identify a formal review process to monitor the extent of compliance with audit recommendations. Where appropriate remedial action has failed to take place within a reasonable period, the matter shall be reported to the Director of Finance. Changes implemented must be maintained in the future and not viewed as merely satisfying an immediate audit point.

## 2.5 External Audit

- 2.5.1 The external auditor is appointed by the Council of Governors.
- 2.5.2 The Audit Code for NHS Foundation Trusts (the 'Audit Code') contains the directions of Monitor under paragraph 24 (5) of Schedule 7 to the National Health Service Act 2006, with respect to the standards, procedures and techniques to be adopted by the auditor.
- 2.5.3 The Foundation Trust shall comply with the Audit Code.
- 2.5.4 The external auditor shall comply with the Audit Code.
- 2.5.5 References in 2.4.3 and 2.4.5 relate equally to internal and external audit.

## 2.6 Security Management

- 2.6.1 In line with his responsibilities, the Foundation Trust Chief Executive will monitor and ensure compliance with Directions issued by the Secretary of State for Health on NHS security management.
- 2.6.2 The Foundation Trust shall nominate suitable individuals to carry out the duties of the Local Security Management Specialist (LSMS) and Security Management Director (SMD) as specified by the Secretary of State for Health guidance on NHS security management.
- 2.6.3 The Chief Executive has overall responsibility for controlling and coordinating security. However, key tasks are delegated to the Security Management Director (SMD) and the appointed Local Security Management Specialist (LSMS).

## 3.0 Allocations, Business Planning, Budgets, Budgetary Control and Monitoring

### 3.1 Preparation and Approval of Business Plans and Budgets

The Chief Executive will compile and submit to the Board an annual business plan which takes into account financial targets and forecast limits of available resources. The annual business plan will contain:

- (a) a statement of the significant assumptions on which the plan is based;
  - (b) details of major changes in workload, delivery of services or resources required to achieve the plan.
- 3.1.2 Prior to the start of the financial year the Director of Finance will, on behalf of the Chief Executive, prepare and submit budgets for approval by the Board. Such budgets will:
- (a) be in accordance with the aims and objectives set out in the annual business plan;
  - (b) accord with workload and manpower plans;

- (c) be produced following discussion with appropriate budget holders;
  - (d) be prepared within the limits of available funds;
  - (e) identify potential risks;
  - (f) enable the Foundation Trust to comply with the requirements of the Prudential Borrowing Code set by Monitor.
- 3.1.3 The Director of Finance shall monitor financial performance against budget and business plan, periodically review them, and report to the Board.
- 3.1.4 All budget holders must provide information as required by the Director of Finance to enable budgets to be compiled.
- 3.1.5 All budget holders will sign up to their allocated budgets at the commencement of each financial year.
- 3.1.6 The Director of Finance has a responsibility to ensure that adequate training is delivered on an on-going basis to budget holders to help them manage successfully.
- 3.2 **Budgetary Delegation**
- 3.2.1 The Chief Executive may delegate the management of a budget to permit the performance of a defined range of activities. This delegation must be in writing and be accompanied by a clear definition of:
- (a) the amount of the budget;
  - (b) the purpose(s) of each budget heading;
  - (c) individual and group responsibilities;
  - (d) authority to exercise virement;
  - (e) achievement of planned levels of service;
  - (f) the provision of regular reports.
- 3.2.2 The Chief Executive and delegated budget holders must not exceed the budgetary total or virement limits set by the Board.
- 3.2.3 Any budgeted funds not required for their designated purpose(s) revert to the immediate control of the Chief Executive, subject to any authorised use of virement.
- 3.2.4 Non-recurring budgets should not be used to finance recurring expenditure without the authority in writing of the Chief Executive, as advised by the Director of Finance.
- 3.3 **Budgetary Control and Reporting**
- 3.3.1 The Director of Finance will devise and maintain systems of budgetary control. These will include:

- (a) monthly financial reports to the Finance & Performance Committee and regular financial reports to the Board in a form approved by the Board, containing:
    - (i) income and expenditure to date, showing trends and forecast year-end position;
    - (ii) movements in working capital;
    - (iii) cash flow statement and details of performance within Prudential Borrowing Code;
    - (iv) capital project spend and projected outturn against plan;
    - (v) explanations of any material variances from plan;
    - (vi) details of any corrective action where necessary and the view of the Chief Executive and/or Director of Finance as to whether such actions are sufficient to correct the situation;
  - (b) the issue of timely, accurate and comprehensible advice and financial reports to each budget holder, covering the areas for which they are responsible;
  - (c) investigation and reporting of variances from financial, workload and manpower budgets;
  - (d) monitoring of management action to correct variances;
  - (e) arrangements for the authorisation of budget transfers.
- 3.3.2 Each budget holder is responsible for ensuring that:
- (a) any likely overspending or reduction of income which cannot be met by virement is not incurred without the prior consent of the Board;
  - (b) the amount provided in the approved budget is not used in whole or in part for any purpose other than that specifically authorised subject to the rules of virement;
  - (c) no permanent employees are appointed without the approval of the Chief Executive or Director of Finance other than those provided for in the available resources and manpower establishment as approved by the Board.
- 3.3.3 The Chief Executive is responsible for identifying and implementing cost improvements and income generation initiatives in accordance with the requirements of the annual business plan and a balanced budget.
- 3.4 **Capital Expenditure**
- 3.4.1 The general rules applying to delegation and reporting shall also apply to capital expenditure. (The particular applications relating to capital are contained in SFI 11.)

### 3.5 **Monitoring Returns**

- 3.5.1 The Chief Executive is responsible for ensuring that the appropriate monitoring forms are submitted to NHSI within the specified timescales.

## 4.0 **Annual Accounts and Reports**

- 4.1 The Director of Finance, on behalf of the Foundation Trust, will prepare financial returns in accordance with the accounting policies and guidance laid down within International Financial Reporting Standards, as modified by the guidance given by Monitor with the approval of the Treasury.
- 4.2 The procedures to be followed in relation to annual accounts and reports are set out in the Foundation Trust's Constitution, paragraph 14, 'Accounts' and paragraph 15, 'Annual reports and forward plans'.
- 4.3 The Council of Governors, in general meeting, shall receive and consider the annual accounts, any report by the external auditor on them and the annual report, as provided by paragraph 6.8.2 of the Foundation Trust's Constitution.

## 5.0 **Bank and GBS Accounts**

### 5.1 **General**

- 5.1.1 The Director of Finance is responsible for managing the Foundation Trust's banking arrangements and for advising the Foundation Trust on the provision of banking services and operation of accounts.
- 5.1.2 The Board shall approve the banking arrangements.

### 5.2 **Bank and GBS Accounts**

- 5.2.1 The Director of Finance is responsible for:
- (a) bank accounts and Government Banking Service (GBS) accounts and other forms of working capital financing;
  - (b) establishing separate bank accounts for the Foundation Trust's non-exchequer funds;
  - (c) ensuring payments made from bank and GBS accounts do not exceed the amount credited to the account except where arrangements have been made;
  - (d) reporting to the Board all arrangements made with the Foundation Trust's bankers for accounts to be overdrawn, together with the remedial action taken.
- 5.2.2 All accounts should be held in the name of the Foundation Trust. No officer other than the Director of Finance shall open any account in the name of the Foundation Trust or for the purpose of furthering Foundation Trust activities.

### 5.3 **Banking Procedures**

5.3.1 The Director of Finance will prepare detailed instructions on the operation of bank and GBS accounts which must include:

- (a) the conditions under which each bank and GBS account is to be operated;
- (b) the limit to be applied to any overdraft;
- (c) those authorised to sign cheques or other orders drawn on the Foundation Trust's accounts.

5.3.2 The Director of Finance shall approve security procedures for any cheques issued without a handwritten signature, e.g. lithographed. Manually produced cheques shall be signed by the authorised officer(s) in accordance with the bank mandate.

5.3.3 All cheques shall be treated as controlled stationery, in the charge of a duly designated officer controlling their issue.

### 5.4 **Tendering and Review**

5.4.1 The Director of Finance will review the commercial banking arrangements of the Foundation Trust at regular intervals to ensure they reflect best practice and represent best value for money by periodically seeking competitive tenders for the Foundation Trust's commercial banking business.

5.4.2 Competitive tenders should be sought at least every five years. The results of the tendering exercise should be reported to the Board. This review is not necessary for GBS accounts.

## 6.0 **Income, Fees and Charges and security of cash, cheques and other negotiable instruments**

### 6.1 **Income Systems**

6.1.1 The Director of Finance is responsible for designing, maintaining and ensuring compliance with systems for the proper recording, invoicing, collection and coding of all monies due.

6.1.2 The Director of Finance is also responsible for the prompt banking of all monies received.

### 6.2 **Fees and Charges**

6.2.1 The Foundation Trust shall follow relevant Department of Health and NHSI advice in setting prices for contracts with NHS organisations and non NHS organisations.

6.2.2 The Director of Finance is responsible for approving and regularly reviewing the level of all fees and charges other than those determined by the Department of Health or Monitor or by Statute. Independent professional advice on matters of valuation shall be taken as necessary. Where sponsorship income (including items in kind such as subsidised goods or loans of equipment) is considered, the guidance in the Department of Health's 'Commercial Sponsorship – Ethical standards in the NHS' shall be followed.

6.2.3 All officers must inform the Director of Finance promptly of money due arising from transactions which they initiate/deal with, including all contracts, leases, tenancy agreements, private patient undertakings and other transactions.

**6.3 Private Health Care**

6.3.1 General Managers in conjunction with the Medical Director and the Director of Finance shall be responsible for the maintenance and operation of procedures for the management of private practice in the Foundation Trust. The procedure shall also cover Fee Paying work, overseas visitors and amenity beds.

6.3.2 All consultants and associated specialists undertaking private practice and Category II work within the Foundation Trust shall be responsible for informing the responsible officer(s) as nominated by the Foundation Trust when private / Fee Paying Work patients are seen, to ensure that the Foundation Trust receives all amounts due to it.

**6.4 Debt Recovery**

6.4.1 The Director of Finance is responsible for the appropriate recovery action on all outstanding debts.

6.4.2 Income not received should be dealt with in accordance with losses procedures.

6.4.3 Overpayments should be detected (or preferably prevented) and recovery initiated.

**6.5 Security of Cash, Cheques and other Negotiable Instruments**

6.5.1 The Director of Finance is responsible for:

- (a) approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable (no form of receipt which has not been specifically authorised by the Director of Finance should be issued);
- (b) ordering and securely controlling any such stationery;
- (c) the provision of adequate facilities and systems for employees whose duties include collecting and holding cash, including the provision of safes or lockable cash boxes, the procedures for keys and for coin operated machines;
- (d) prescribing systems and procedures for handling cash and negotiable securities on behalf of the Foundation Trust.

6.5.2 Official money shall not under any circumstances be used for the encashment of private cheques or IOUs.

6.5.3 All cheques, postal orders, cash, etc. shall be banked promptly intact. Disbursements shall not be made from cash received, except under arrangements approved by the Director of Finance.

6.5.4 The holders of safe keys shall not accept unofficial funds for depositing in their safes unless such deposits are in special sealed envelopes or locked containers. It shall be

made clear to the depositors that the Foundation Trust is not to be held liable for any loss, and written indemnities must be obtained from the organisation or individuals absolving the Foundation Trust from responsibility for any loss.

- 6.5.5 Any loss or shortfall of cash, cheques or other negotiable instruments, however occasioned, shall be monitored and recorded within the Finance Department. Any significant trends should be reported to the Director of Finance and internal audit via the incident reporting system. Where there is prima facie evidence of fraud or corruption, this process should follow the form of the Foundation Trust's Fraud and Corruption Response Plan and the guidance provided by NHS Protect (previously known as the NHS Counter Fraud and Security Management Service). Where there is no evidence of fraud or corruption, the loss should be dealt with in line with the Foundation Trust's Losses and Special Payments procedures.

## **7.0 NHS Contracts for provision of Services**

### **7.1 NHS Contracts for services provided by the Trust**

7.1.1 The Chief Executive, as the accounting officer, is responsible for ensuring that the Foundation Trust enters into suitable NHS Contracts with service commissioners for the provision of NHS services.

7.1.2 All NHS Contracts should aim to implement the agreed priorities contained within the annual business plan and, wherever possible, be based upon integrated care pathways to reflect expected patient experience. In discharging this responsibility, the Chief Executive should take into account:

- the standards of service quality expected;
- the relevant national service framework (if any);
- the provision of reliable information on cost and volume of services;
- the NHS National Performance Assessment Framework;
- ensuring that NHS Contracts build where appropriate on existing Joint Investment Plans;
- ensuring that NHS Contracts are based on integrated care pathways.

### **7.1.3 Non-NHS Contracts for services provided to the Foundation Trust**

Non-NHS Contracts provided to the Foundation Trust requires approval by the Director of Finance or his Deputy/Assistant Finance Director and the relevant Manager and Executive Director in line with the Scheme of Delegation.

## **8.0 Terms of Service and Payment of Board Members and Employees**

### **8.1 Remuneration Committee (see also Annex 7 to Standing Orders)**

8.1.1 In accordance with Standing Orders the Board shall establish a Remuneration Committee, with clearly defined terms of reference, specifying which posts fall within its area of responsibility, its composition, and the arrangements for reporting (see NHS guidance contained in the Higgs report).

### **8.2 Funded Establishment**

8.2.1 The manpower plans incorporated within the annual budget will form the funded establishment.

8.2.2 The funded establishment of any department may not be varied without the approval of the Chief Executive.

### **8.3 Staff Appointments**

8.3.1 No officer may engage, re-engage, or re-grade employees, either on a permanent or temporary basis, or hire agency staff, or agree to changes in any aspect of remuneration:

- (a) unless authorised to do so by the Chief Executive;
- (b) beyond the limit of his approved budget and funded establishment.

8.3.2 The Board will approve procedures presented by the Chief Executive for the determination of commencing pay rates, conditions of service, etc, for employees.

### **8.4 Processing of Payroll**

8.4.1 The Director of Finance is responsible for:

- (a) specifying timetables for submission of properly authorised time records and other notifications;
- (b) making payment on agreed dates;
- (c) agreeing method of payment.

8.4.2 The Director of Finance will issue instructions regarding:

- (a) verification and documentation of data;

- (b) the timetable for receipt and preparation of payroll data and payments to employees and of allowances;
- (c) maintenance of subsidiary records for superannuation, income tax, social security and other authorised deductions from pay;
- (d) security and confidentiality of payroll information;
- (e) checks to be applied to completed payroll before and after payment;
- (f) authority to release payroll data under the provisions of the Data Protection Act;
- (g) methods of payment available to various categories of employee;
- (h) procedures for payment by cheque, bank credit, or cash to employees;
- (i) procedures for the recall of cheques and bank credits;
- (j) pay advances and their recovery;
- (k) maintenance of regular and independent reconciliation of pay control accounts;
- (l) separation of duties of preparing records and handling cash;
- (m) a system to ensure the recovery from leavers of sums of money and property due by them to the Foundation Trust.

8.4.3 Appropriately nominated managers have delegated responsibility for:

- (a) processing a signed copy of the contract/appointment form and such other documentation as may be required immediately upon an employee commencing duty;
- (b) submitting time records and other notifications in accordance with agreed timetables;
- (c) completing time records and other notifications in accordance with the instructions of the Director of Finance and in the form prescribed by the Director of Finance;
- (d) submitting termination forms in the prescribed form immediately upon knowing the effective date of an employee's resignation, termination or retirement. Where an employee fails to report for duty or to fulfil obligations in circumstances that suggest he has left without notice, the Director of Finance must be informed immediately.

If circumstances are such that fraud or corruption might be expected, this fact also must be reported to the Director of Finance.

8.4.4 Regardless of the arrangements for providing the payroll service, the Director of Finance shall ensure that the chosen method is supported by appropriate (contracted) terms and conditions, adequate internal controls and audit review procedures and that suitable arrangements are made for the collection of payroll deductions and payment of these to appropriate bodies.

## 8.5 **Contracts of Employment**

8.5.1 The Board shall delegate responsibility to an officer for:

- (a) ensuring that all employees are issued with a contract of employment in a form approved by the Board and which complies with employment legislation;
- (b) dealing with variations to, or termination of, contracts of employment.

## 9.0 **Non-Pay Expenditure**

### 9.1 **Delegation of Authority**

9.1.1 The Board will approve the level of non-pay expenditure on an annual basis.

9.1.2 The Director of Finance shall set out procedures on seeking of professional advice from the Pharmacy, Estates, Procurement and Finance departments regarding the supply of goods and services.

### 9.2 **Choice, Requisitioning, Ordering, Receipt and Payment for Goods and Services (see also SFI 21, Tendering and Contracting Procedure)**

#### 9.2.1 **Requisitioning**

The requisitioner, in choosing the item to be supplied (or the service to be performed) shall always obtain the best value for money for the Foundation Trust. In so doing, the advice of colleagues in Procurement, Pharmacy or Estates on supply shall be sought. Where this advice is not acceptable to the requisitioner, the Director of Finance (and/or the Chief Executive) shall be consulted.

All goods, services, or works shall be ordered on an official order except works and services executed in accordance with a contract and purchases from petty cash or on a purchase card.

#### 9.2.2 **System of Payment and Payment Verification**

The Director of Finance shall be responsible for the prompt payment of accounts and claims. Payment of contract invoices shall be in accordance with contract terms or, otherwise, in accordance with national guidance.

9.2.3 The Director of Finance will:

- (a) advise the Board regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; once approved, the thresholds should be incorporated in Standing Orders and Standing Financial Instructions and regularly reviewed;
- (b) prepare procedural instructions or guidance within the Scheme of Delegation on the obtaining of goods, works and services incorporating the thresholds;
- (c) be responsible for the prompt payment of all properly authorised accounts and claims;

- (d) be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable. The system shall provide for:
- (i) A list of Board members and officers (including specimens of their signatures) authorised to certify invoices.
  - (ii) Certification that:
    - goods have been duly received, examined and are in accordance with specification and the prices are correct;
    - work done or services rendered have been satisfactorily carried out in accordance with the order, and, where applicable, the materials used are of the requisite standard and the charges are correct;
    - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for the use of vehicles and plant and machinery have been examined;
    - where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
    - the account is arithmetically correct;
    - the account is in order for payment.
  - (iii) A timetable and system for submission to the Director of Finance of accounts for payment. Provision shall be made for the early submission of accounts subject to cash discounts or otherwise requiring early payment.
  - (iv) Instructions to employees regarding the handling and payment of accounts within the Finance Department.
- (e) be responsible for ensuring that payment for goods and services is only made once the goods and services are received. The only exceptions are set out in SFI 9.2.4.

#### 9.2.4 **Pre-payments**

Pre-payments (outside of normal commercial arrangements such as might apply to fully comprehensive maintenance contracts, rents and insurance) are only permitted where exceptional circumstances apply. These exceptional circumstances would specifically include where the supplier has significant market power or is a sole supplier and/or where pre-payment is part of the terms negotiated centrally by the Government Procurement Service, NHS Supply Chain or North of England Collaborative Procurement Consortium. In such instances:

- (a) the financial advantages must outweigh the disadvantages (i.e. cash flows must be discounted to NPV using the National Loans Fund (NLF) rate plus 2%);
- (b) the appropriate officer must provide, in the form of a written report, a case setting out all relevant circumstances of the purchase. The report must set out the effects on the Foundation Trust if the supplier is at some time during the course of the prepayment agreement unable to meet his commitments;
- (c) the Director of Finance will need to be satisfied with the proposed arrangements before contractual arrangements proceed (taking into account the EU public procurement rules where the contract is above a stipulated financial threshold);
- (d) the budget holder is responsible for ensuring that all items due under a prepayment contract are received and must immediately inform the appropriate Director or Chief Executive if problems are encountered.

#### 9.2.5 **Official Orders**

Official Orders must:

- (a) be consecutively numbered;
- (b) be in a form approved by the Director of Finance;
- (c) state the Foundation Trust's terms and conditions of trade;
- (d) only be issued to, and used by, those duly authorised by the Chief Executive.

#### 9.2.6 **Duties of Managers and Officers**

Managers and officers must ensure that they comply fully with the guidance and limits specified by the Director of Finance and that:

- (a) all contracts (except as otherwise provided for in the Scheme of Delegation), leases, tenancy agreements and other commitments which may result in a liability are notified to the Director of Finance in advance of any commitment being made;
- (b) contracts above specified thresholds are advertised and awarded in accordance with EU rules on public procurement;
- (c) where consultancy advice is being obtained, the procurement of such advice is in accordance with SFI 21, Tendering and Contracting Procedure;
- (d) no order is issued for any item or items to any firm which has made an offer of gifts, reward or benefit to Board members or officers, other than:
  - (i) isolated gifts of a trivial character or inexpensive seasonal gifts, such as calendars;
  - (ii) conventional hospitality, such as lunches in the course of working visits;

**(This provision needs to be read in conjunction with Standing Order No. 7 and the principles outlined in the national guidance contained in HSG 93 (5) 'Standards of Business Conduct for NHS Staff' and NHSE Guidance on managing Conflict of Interest w/e June 2017 );**

- (e) no requisition/order is placed for any item or items for which there is no budget provision unless authorised by the Director of Finance on behalf of the Chief Executive;
  - (f) all goods, services, or works are ordered on an official order except works and services executed in accordance with a contract and purchases from petty cash or on a purchase card;
  - (g) verbal orders are issued only very exceptionally, by an officer designated by the Chief Executive and only in cases of emergency or urgent necessity. These must be confirmed by an official order and clearly marked 'Confirmation Order';
  - (h) orders are not split or otherwise placed in a manner devised so as to avoid the financial thresholds;
  - (i) goods are not taken on trial or loan in circumstances that could commit the Foundation Trust to a future uncompetitive purchase;
  - (j) changes to the list of Board members/officers authorised to certify invoices are notified to the Director of Finance;
  - (k) purchases from petty cash and on purchase cards are restricted in value and by type of product or service in accordance with instructions issued by the Director of Finance;
  - (l) petty cash records are maintained in a form as determined by the Director of Finance.
- 9.2.7 The Chief Executive and Director of Finance shall ensure that the arrangements for financial control and financial audit of building and engineering contracts and property transactions comply with the guidance contained within Estate code. The technical audit of these contracts shall be the responsibility of the relevant Board member.
- 9.3 **Joint Finance Arrangements with Local Authorities and Voluntary Bodies**
- 9.3.1 Payments to local authorities and voluntary organisations made under the powers of section 28A of the NHS Act shall comply with procedures laid down by the Director of Finance which shall be in accordance with this Act.
- 9.3.2 The financial limits for officers' approval of payments are set out in the Scheme of Delegation.

## **10.0 External Borrowing and Investments**

### **10.1 Prudential Borrowing Code**

10.1.1 The Foundation Trust must ensure compliance with the Prudential Borrowing Code set by the Independent Regulator to limit the amount of borrowing for Foundation Trusts.

10.1.2 The Prudential Borrowing Code will determine the Prudential Borrowing Limit. The Foundation Trust must not borrow outside of the limit imposed by the Independent Regulator in the Terms of Authorisation. This limit is to be reviewed annually by the Independent Regulator.

### **10.2 Public Dividend Capital**

10.2.1 On authorisation as a Foundation Trust the Public Dividend Capital held immediately prior to authorisation (Initial Public Dividend Capital) continues to be held on the same conditions.

10.2.2 Additional Public Dividend Capital may be made available on such terms the Secretary of State (with the consent of the Treasury) decides.

10.2.3 Draw down of Public Dividend Capital should be authorised in accordance with the mandate held by the Department of Health Cash Funding Team and is subject to approval by the Secretary of State.

### **10.3 General**

10.3.1 The Board will approve policies concerning all external borrowing and investments. The Director of Finance will prepare detailed procedural instructions concerning all external borrowing and investments and the records to be maintained.

## **11.0 Capital Investment, Private Financing, Fixed Asset Registers and Security of Assets**

### **11.1 Capital Investment**

11.1.1 The Chief Executive:

- (a) shall ensure that there is an adequate appraisal and approval process in place for determining capital expenditure priorities and the effect of each proposal upon business plans;
- (b) is responsible for the management of all stages of capital schemes and for ensuring that schemes are delivered on time and to cost;
- (c) shall ensure that the capital investment is not undertaken without confirmation of the availability of resources to finance all revenue consequences, including capital charges.

- 11.1.2 For every capital expenditure proposal the Chief Executive shall ensure (in accordance with the limits outlined in the Scheme of Delegation):
- (a) that a business case (in line with the guidance contained within the Annual Reporting Manual issued by NHSI) is produced setting out:
    - (i) an option appraisal of potential benefits compared with known costs to determine the option with the highest ratio of benefits to costs;
    - (ii) the involvement of appropriate Foundation Trust personnel and external agencies;
    - (iii) appropriate project management and control arrangements;
  - (b) that the Director of Finance has certified professionally to the costs and revenue consequences detailed in the business case.
- 11.1.3 For capital schemes where the contracts stipulate stage payments, the Chief Executive will issue procedures for their management, incorporating the recommendations of Estate code.
- 11.1.4 The Director of Finance shall assess the requirement for the operation of the construction industry tax deduction scheme in accordance with HM Revenue & Customs guidance.
- 11.1.5 The Director of Finance shall issue procedures for the regular reporting of expenditure and commitment against authorised expenditure.
- 11.1.6 The approval of a capital programme shall not constitute approval for expenditure on any scheme.
- 11.1.7 The Chief Executive shall issue to the manager responsible for any scheme:
- (a) specific authority to commit expenditure;
  - (b) authority to proceed to tender (see also Appendix 1 to SFIs, Detailed Tendering Procedures);
  - (c) approval to accept a successful tender (see also Appendix 1 to SFIs, Detailed Tendering Procedures).
- 11.1.8 The Chief Executive will issue a scheme of delegation for capital investment management in accordance with Estate code guidance and the Foundation Trust's Standing Orders.
- 11.1.9 The Director of Finance shall issue procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes.

## 11.2 Private Finance

- 11.2.1 The Foundation Trust may test for PFI when considering capital procurement. The following procedures shall apply:
- (a) The Director of Finance shall demonstrate that the use of private finance represents value for money and genuinely transfers significant risk to the private sector.
  - (b) The proposal must be specifically agreed by the Board.
  - (c) The selection of a contractor / finance company must be on the basis of competitive tendering or quotations (see also SFI 21, Tendering and Contracting Procedure).

## 11.3 Capital Asset Registers

- 11.3.1 The Chief Executive is responsible for the maintenance of a capital asset register, taking account of the advice of the Director of Finance concerning the form of any register and the method of updating. A physical check of capital assets against the register should be conducted every two years.
- 11.3.2 The Foundation Trust shall maintain an asset register recording capital assets. The minimum data set to be held within these registers shall be as specified in the Annual Reporting Manual issued by -NHSI.
- 11.3.3 Additions to the capital asset register must be clearly identified to an appropriate budget holder and be validated by reference to:
- (a) properly authorised and approved agreements, architects' certificates, suppliers' invoices and other documentary evidence in respect of purchases from third parties;
  - (b) stores, requisitions and wages records for own materials and labour including appropriate overheads;
  - (c) lease agreements in respect of assets held under a finance lease and capitalised.
- 11.3.4 Where capital assets are sold, scrapped, lost or otherwise disposed of, their value must be removed from the accounting records and each disposal must be validated by reference to authorisation documents and invoices (where appropriate).
- 11.3.5 The Director of Finance shall approve procedures for reconciling balances on capital assets accounts in ledgers against balances on capital asset registers.
- 11.3.6 Indexation and depreciation should be in line with guidance issued by NHSI.
- ## 11.4 Protected Property
- 11.4.1 A register of protected property must be maintained in accordance with the requirements of the Independent Regulator.

11.4.2 No protected property may be disposed of without the approval of the Independent Regulator.

## 11.5 Security of Assets

11.5.1 The overall control of fixed assets is the responsibility of the Chief Executive.

11.5.2 Asset control procedures (including fixed assets, cash, cheques and negotiable instruments, and also including donated assets) must be approved by the Director of Finance. These procedures shall make provision for:

- (a) recording managerial responsibility for each asset;
- (b) identification of additions and disposals;
- (c) identification of all repairs and maintenance expenses;
- (d) physical security of assets;
- (e) periodic verification of the existence of, condition of, and title to assets recorded;
- (f) identification and reporting of all costs associated with the retention of an asset;
- (g) reporting, recording and safekeeping of cash, cheques, and negotiable instruments.

11.5.3 All discrepancies revealed by verification of physical assets to fixed asset register shall be notified to the Director of Finance.

11.5.4 Whilst each officer has a responsibility for the security of property of the Foundation Trust, it is the responsibility of Board members and senior officers in all disciplines to apply such appropriate routine security practices in relation to NHS property as may be determined by the Board. Any breach of agreed security practices must be reported in accordance with agreed procedures.

11.5.5 Any damage to the Foundation Trust's premises, vehicles and equipment, or any loss of equipment, stores or supplies, must be reported by Board members and officers in accordance with the procedure for reporting losses.

11.5.6 Where practical assets should be marked as Foundation Trust property.

## 12.0 Stores and receipt of Goods

### 12.1 General Position

Stores, defined in terms of controlled stores and departmental stores (for immediate use), should be:

- (a) kept to a minimum;
- (b) subjected to annual stock take;

(c) valued at the lower of cost and net realisable value.

## 12.2 **Control of Stores, Stocktaking, Condemnations and Disposal**

- 12.2.1 Subject to the responsibility of the Director of Finance for the systems of control, overall responsibility for the control of stores shall be delegated to an officer by the Chief Executive. The day-to-day responsibility may be delegated by him to departmental officers and stores managers/keepers, subject to such delegation being entered in a record available to the Director of Finance. The control of pharmaceutical stocks shall be the responsibility of a designated Pharmaceutical Officer, the control of fuel oil and the Estates Stores the responsibility of a designated Estates Officer.
- 12.2.2 The responsibility for security arrangements and the custody of keys for all stores and locations shall be clearly defined in writing by the designated officer. Wherever practicable, stocks should be marked as health service property.
- 12.2.3 The Director of Finance shall set out procedures and systems to regulate the stores including records for receipt of goods, issues, and returns to stores, and losses.
- 12.2.4 Stocktaking arrangements shall be agreed with the Director of Finance and there shall be a physical check covering all items in store at least once a year.
- 12.2.5 Where a complete system of stores control is not justified, alternative arrangements shall require the approval of the Director of Finance.
- 12.2.6 The designated officer shall be responsible for a system approved by the Director of Finance for a review of slow moving and obsolete items and for condemnation, disposal, and replacement of all unserviceable articles. The designated officer shall report to the Director of Finance any evidence of significant overstocking and of any negligence or malpractice (see also SFI 13, Disposals and Condemnations, Losses and Special Payments). Procedures for the disposal of obsolete stock shall follow the procedures set out for disposal of all surplus and obsolete goods.

## 12.3 **Goods supplied by NHS Supply and Bunzl Healthcare**

- 12.3.1 For goods supplied via the NHS Supply and Bunzl Healthcare central warehouses, the Chief Executive shall identify those authorised to requisition and accept goods from the store. The authorised person shall check receipt against the delivery note before forwarding this to the Director of Finance, who shall satisfy himself that the goods have been received before accepting the recharge.

## 13.0 **Disposal and Condemnations, Losses and Special Payments**

### 13.1 **Disposals and Condemnations**

#### 13.1.1 **Procedures**

The Director of Finance must prepare detailed procedures for the disposal of assets including condemnations and ensure that these are notified to managers.

- 13.1.2 When it is decided to dispose of a Foundation Trust asset, the head of department or authorised deputy will determine, and advise the Director of Finance of, the estimated market value of the item, taking account of professional advice where appropriate.
- 13.1.3 All unserviceable articles shall be:
- (a) condemned or otherwise disposed of by an officer authorised for that purpose by the Director of Finance;
  - (b) recorded by the Condemning Officer in a form approved by the Director of Finance, which will indicate whether the articles are to be converted, destroyed or otherwise disposed of. All entries shall be confirmed by the countersignature of a second officer authorised for the purpose by the Director of Finance.
- 13.1.4 The Condemning Officer shall satisfy himself as to whether or not there is evidence of negligence in use and shall report any such evidence to the Director of Finance who will take the appropriate action.
- 13.2 Losses and Special Payments**
- 13.2.1 Procedures**
- The Director of Finance must prepare procedural instructions on the recording of and accounting for condemnations, losses and special payments. The Director of Finance must also prepare a 'fraud and corruption response plan' that sets out the action to be taken both by persons detecting a suspected fraud or corruption and those persons responsible for investigating it.
- 13.2.2 Any officer discovering or suspecting a loss of any kind must either immediately inform their head of department, who must immediately inform the Chief Executive and the Director of Finance, or inform an officer charged with responsibility for responding to concerns involving loss. This officer will then as appropriate inform the Director of Finance and/or Chief Executive. Where a criminal offence is suspected, the Director of Finance must immediately inform the police if theft or arson is involved. In cases of fraud and corruption or of anomalies which may indicate fraud or corruption, the Director of Finance must inform the Local Counter Fraud Specialist and NHS Protect (previously known as NHS Counter Fraud and Security Management Service) Area Anti- Fraud Specialist in accordance with Directions of the Secretary of State for Health.
- 13.2.3 The Director of Finance must notify the external auditor of all frauds.
- 13.2.4 For losses apparently caused by theft, arson, neglect of duty or gross carelessness, except if trivial, the Director of Finance must immediately notify:
- (a) the Board,
  - (b) the external auditor.
- 13.2.5 Approval of the writing off of losses and special payments shall be in accordance with the Scheme of Delegation.

- 13.2.6 The Director of Finance shall be authorised to take any necessary steps to safeguard the Foundation Trust's interests in bankruptcies and company liquidations.
- 13.2.7 For any loss, the Director of Finance should consider whether any insurance claim can be made.
- 13.2.8 The Director of Finance shall maintain a Losses and Special Payments Register in which write offs are recorded, which will be presented to the Audit Committee.

## 14.0 Information Technology

### 14.1 Responsibilities and Duties of the Director of Finance and of the Director of Strategy and Integration

- 14.1.1 The Director of Finance, who is responsible for the accuracy and security of the computerised financial data of the Foundation Trust, shall:
  - (a) devise and implement any necessary procedures to ensure adequate (reasonable) protection of the Foundation Trust's financial data, programs and computer hardware from accidental or intentional disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for the Data Protection Act 1998 and the Computer Misuse Act 1990;
  - (b) ensure that adequate (reasonable) controls exist over financial data entry, processing, storage, transmission and output to ensure security, privacy, accuracy, completeness and timeliness of the data, as well as the efficient and effective operation of the system;
  - (c) ensure that adequate controls exist such that the financial computer operation is separated from development, maintenance and amendment;
  - (d) ensure that adequate controls exist to maintain the security, privacy, accuracy and completeness of financial data sent via transmission networks;
  - (e) ensure that an adequate management (audit) trail exists through the financial computerised system and that such computer audit reviews as he may consider necessary are being carried out.
- 14.1.2 The Director of Finance shall need to ensure that new financial systems and amendments to current financial systems are developed in a controlled manner and thoroughly tested prior to implementation. Where this is undertaken by another organisation, assurances of adequacy must be obtained from them prior to implementation.
- 14.1.3 The Director of Strategy and Integration shall publish and maintain a Freedom of Information (FOI) Publication Scheme or adopt a model Publication Scheme approved by the Information Commissioner. A Publication Scheme is a complete guide to the information routinely published by a public authority. It describes the classes or types of information about the Foundation Trust that it makes publicly available.

**14.2 Responsibilities and Duties of other Board Members and Officers in relation to Financial Computer Systems of a General Application**

14.2.1 In the case of financial computer systems which are proposed general applications (i.e. normally those applications which the majority of NHS organisations in the region wish to sponsor jointly), all responsible Board members and officers will send to the Director of Finance:

- (a) details of the outline design of the system;
- (b) in the case of packages acquired either from a commercial organisation, from the NHS, or from another public sector organisation, the operational requirement.

**14.3 Contracts for Financial Computer Services with other Health Bodies or Outside Agencies**

14.3.1 The Director of Finance shall ensure that contracts for computer services for financial applications with another health organisation or any other agency shall clearly define the responsibility of all parties for the security, privacy, accuracy, completeness and timeliness of data during processing, transmission and storage. The contract should also ensure rights of access for audit purposes.

14.3.2 Where another health organisation or any other agency provides a computer service for financial applications, the Director of Finance shall periodically seek assurances that adequate controls are in operation.

**14.4 Risk Assessment**

14.4.1 The Director of Finance shall ensure that risks to the Foundation Trust arising from the use of IT in a financial context are effectively identified and considered and appropriate action taken to mitigate or control risk. This shall include the preparation and testing of appropriate disaster recovery plans.

**14.5 Requirements for Computer Systems which have an impact on Corporate Financial Systems**

14.5.1 Where computer systems have an impact on corporate financial systems the Director of Finance shall need to be satisfied that:

- (a) systems acquisition, development and maintenance are in line with corporate policies such as an information technology strategy;
- (b) data produced for use with financial systems is adequate, accurate, complete and timely, and that a management (audit) trail exists;
- (c) Director of Finance staff have access to such data;
- (d) such computer audit reviews as are considered necessary are being carried out.

## 15.0 Patient's Property

- 15.1 The Foundation Trust has a responsibility to provide safe custody for money and other personal property (hereafter referred to as 'property') handed in by patients, in the possession of unconscious or confused patients, or found in the possession of patients dying in hospital or dead on arrival.
- 15.2 The Chief Executive is responsible for ensuring that patients or their guardians, as appropriate, are informed before or at admission by:
- notices and information booklets (notices are subject to sensitivity guidance),
  - hospital admission documentation and property records,
  - the oral advice of administrative and nursing staff responsible for admissions,
- that the Foundation Trust will not accept responsibility or liability for patients' property brought into Health Service premises, unless it is handed in for safe custody and a copy of an official patient's property record is obtained as a receipt.
- 15.3 The Director of Finance must provide detailed written instructions on the collection, custody, investment, recording, safekeeping and disposal of patients' property (including instructions on the disposal of the property of deceased patients and of patients transferred to other premises) for all staff whose duty is to administer, in any way, the property of patients. Due care should be exercised in the management of a patient's money.
- 15.4 Where Department of Health instructions require the opening of separate accounts for patients' monies, these shall be opened and operated under arrangements agreed by the Director of Finance.
- 15.5 In all cases where property of a deceased patient is of a total value in excess of £5,000 (or such other amount as may be prescribed by any amendment to the Administration of Estates (Small Payments) Act 1965), the production of probate or letters of administration shall be required before any of the property is released. Where the total value of property is £5,000 or less, forms of indemnity shall be obtained.
- 15.6 Staff should be informed, on appointment, by the appropriate departmental or senior manager, of their responsibilities and duties for the administration of the property of patients.
- 15.7 Where patients' property or income is received for specific purposes and held for safekeeping, the property or income shall be used only for that purpose, unless any variation is approved by the donor or patient in writing.

## 16.0 Funds held on Trust

### 16.1 Corporate Trustee

- 16.1.1 The Introduction to Standing Orders (Statutory Framework) outlines the Foundation Trust's responsibilities as a corporate trustee for the management of funds it holds on trust.

- 16.1.2 The discharge of the Foundation Trust's corporate trustee responsibilities is distinct from the discharge of its responsibilities for exchequer funds and may not necessarily be achieved in the same manner, but there must still be adherence to the overriding general principles of financial regularity, prudence and propriety. Trustee responsibilities cover both charitable and non-charitable purposes.
- 16.1.3 The Director of Finance shall ensure that each trust fund which the Foundation Trust is responsible for managing is managed appropriately with regard to its purpose and to its requirements.
- 16.2 Accountability to Charity Commission and Independent Regulator**
- 16.2.1 The trustee responsibilities must be discharged separately and full recognition given to the Foundation Trust's dual accountabilities to the Charity Commission for charitable funds held on trust and to NHSI for all funds held on trust.
- 16.2.2 The Reservation of Powers to the Board and Scheme of Delegation make clear where decisions regarding the exercise of discretion in terms of the disposal and use of the funds are to be taken and by whom. All Board members and officers must take account of that guidance before taking action. SFIs are intended to provide guidance to persons to whom authority has been delegated to act on behalf of the corporate trustee.
- 16.3 Applicability of Standing Financial Instructions to Funds Held on Trust**
- 16.3.1 As far as possible, most of the sections of these SFIs will apply to the management of funds held on trust (see also SFI 21, Tendering and Contracting Procedure).
- 16.3.2 The over-riding principle is that the integrity of each trust must be maintained and statutory and trust obligations met. Materiality must be assessed separately from exchequer activities and funds.

## **17.0 Retention of records**

- 17.1 The Chief Executive shall be responsible for maintaining archives for all records required to be retained in accordance with Department of Health guidelines.
- 17.2 The records held in archives shall be capable of retrieval by authorised persons.
- 17.3 Records held in accordance with latest Department of Health guidance shall only be destroyed at the express instigation of the Chief Executive. Detail shall be maintained of records so destroyed.

## **18.0 Risk management and insurance**

- 18.1 Programme of Risk Management**
- 18.1.1 The Chief Executive shall ensure that the Foundation Trust has a programme of risk management, which must be approved and monitored by the Board.
- 18.1.2 The programme of risk management shall include:

- (a) a process for identifying and quantifying risks and potential liabilities;
  - (b) engendering among all levels of staff a positive attitude towards the control of risk;
  - (c) management processes to ensure all significant risks and potential liabilities are addressed, including effective systems of internal control, cost effective insurance cover, and decisions on the acceptable level of retained risk;
  - (d) contingency plans to offset the impact of adverse events;
  - (e) audit arrangements, including internal audit, clinical audit, health and safety review;
  - (f) a clear indication of which risks shall be insured;
  - (g) arrangements to review the risk management programme.
- 18.1.3 The existence, integration and evaluation of the above elements will assist in providing a basis to make an Annual Governance Statement (AGS) within the annual report and accounts.
- 18.2 Insurance: Risk Pooling Schemes administered by the NHS Litigation Authority**
- 18.2.1 It is the responsibility of the Board to decide if the Foundation Trust will insure through the risk pooling schemes administered by the NHS Litigation Authority. The decision whether the Trust will join the pooling schemes, self-insure or procure insurance cover for some or all of the risks covered by these schemes shall be reviewed annually.
- 18.3 Insurance Arrangements with Commercial Insurers**
- 18.3.1 The Director of Finance shall ensure that insurance arrangements exist in accordance with the risk management programme.
- 18.4 Arrangements to be followed by the Board in agreeing Insurance Cover**
- 18.4.1 Where the Board decides to use the risk pooling schemes administered by the NHS Litigation Authority, the Director of Finance shall ensure that the arrangements entered into are appropriate and complementary to the risk management programme. The Director of Finance shall ensure that documented procedures cover these arrangements.
- 18.4.2 Where the Board decides not to use the risk pooling schemes administered by the NHS Litigation Authority for one or other of the risks covered by the schemes, the Director of Finance shall ensure that the Board is informed of the nature and extent of the risks that are self-insured as a result of this decision. The Director of Finance will draw up formal documented procedures for the management of any claims arising from third parties and payments in respect of losses which will not be reimbursed.

## **19.0 Research and development**

- 19.1 All research and development activities within the Foundation Trust shall be notified to the Director of Research.

- 19.2 The Director of Finance shall ensure that procedures are put in place to ensure that all such activities are properly accounted for and that all funding is utilised appropriately.

## **20.0 Acceptance of gifts by staff, standard of business conduct**

- 20.1 The Trust Secretary shall ensure that all staff are made aware of the Foundation Trust's policy on acceptance of gifts and other benefits in kind by staff. This policy follows the guidance contained in the NHSE Guidance June 2017 and Department of Health circular HSG (93) 5 'Standards of Business Conduct for NHS Staff', NHS England guidance 'Managing Conflicts of Interest in the NHS ref 06419 and is also deemed to be an integral part of Standing Orders and Standing Financial Instructions (see also SO No. 7).

## **21.0 Tendering and contracting procedure**

### **21.1 Duty to comply with Standing Orders and Standing Financial Instructions**

The procedure for making all contracts by or on behalf of the Foundation Trust shall comply with Standing Orders and these Standing Financial Instructions (except where Standing Order No. 3.31 (Suspension of SOs) is applied).

### **21.2 EU Directives Governing Public Procurement**

- 21.2.1 Directives by the Council of the European Union prescribing procedures for awarding all forms of contracts shall have effect as if incorporated in Standing Orders and these Standing Financial Instructions. As will DoH/Gov.uk Procurement Policy Notes.

- 21.2.2 Nothing in these Standing Financial Instructions can override these Directives.

### **21.3 Reverse eAuctions and Electronic Tendering/Quotation**

The Foundation Trust shall have policies and procedures in place for the control of all activity carried out through Reverse eAuctions and by means of electronic quotation or tendering.

### **21.4 Monitor Guidance on Capital Investment**

The Foundation Trust will comply with the requirements of the Annual Reporting Manual issued by Monitor in respect of capital investment and estate and property transactions.

### **21.5 Competitive Tendering**

#### **21.5.1 General Applicability**

#### **Summary Table of Types of Procedure and Financial Limits**

Value more than EU threshold as advised by Procurement, EU public procurement applicable. Value not more than EU threshold, procedure is as summarised in the table below:

	Tender	Quotation
Competitive	<p>More than £25,000</p> <p>At least 3 tender invitations to be sent wherever possible</p>	<p>More than £10,000 but not more than £25,000</p> <p>At least 3 quotations to be obtained wherever possible</p>
Non-Competitive ('Single' Tender/Quotation)	<p>More than £25,000 but competitive tendering waived under 21.5.2 (c) to (g) below</p>	<p>More than £10,000 but not more than £25,000 and criteria in 21.7.3 below met</p>

Amounts are exclusive of VAT and apply to both capital and revenue. These are for the lifetime of the contract and should not be subdivided for the purposes of reducing the total value of the contract to bring the exercise under BTHFT or EU thresholds.

For current OJEU thresholds, please consult <http://www.ojec.com/threshholds.aspx>

### **Procurement below £10,000**

The purchase of goods or services under an estimated value of £10,000 (excluding VAT) does not require formal competition. However, the purchase must still represent value for money and offer fair and equitable treatment to suppliers. It may therefore be necessary from time to time to obtain three quotations, although this must be considered against the associated procurement administration costs.

### **Procurement between £10,000 and £25,000**

A minimum of three written quotations are required for the purchase of goods and services between an estimated value of £10,000 and £25,000 (excluding VAT). Depending on the nature of the purchase, particularly in respect of potentially complex or high risk requirements, the Foundation Trust should consider the appropriateness of formal tender procedures. This must be considered in line with the Public Contracts Regulations 2015, which specifically require a degree of advertising appropriate to the nature of the procurement requirement. To the extent that a contract opportunity is only offered to a pre-selected number of suppliers for the purpose of obtaining a quote i.e., it is not widely advertised to the market, then the opportunity does not need to be advertised on Contracts Finder. However, contracts valued above £25,000 but below any applicable EU threshold need to be advertised on Contracts Finder if it is being advertised anywhere else i.e., advertising the opportunity beyond requesting quotes from a select number of suppliers.

The value of contracts within these values will include the cost of any potential extension written into the contract

### **Procurement between £25,000 and EU Procurement Threshold**

The Foundation Trust will adopt formal tendering procedures for all procurements in excess of an estimated value of £25,000 (and in some cases for lower value procurement which has been considered to be potentially complex or high risk).

However, the extent and complexity of the documentation should be no greater than is necessary for the nature or value of the requirements.

Additionally, when selecting a suitable tender process for below EU threshold contracts as outlined above, care should be taken to ensure that there is no PQQ/pre selection stage introduced as this is prohibited by current procurement regulations. All contract opportunities within this value range must be advertised. This will usually be via the Foundation Trust's e-tendering portal and in keeping with the requirements of Regulation 110 of the Public Contracts Regulations 2015, contracts valued over £25,000 (but below the general EU threshold) must also be advertised on Contracts Finder if the opportunity is being advertised elsewhere.

In keeping with Regulation 112 of the Public Contracts Regulation 2015, once awarded, all contracts value at above £25,000 should be advertised on Contracts Finder.

### **Requirements above the EU Threshold**

The tender process and timescales are governed by the Public Contracts Regulations 2015 (and the Public Contracts Regulations 2006 for processes commenced after 26 February 2015, including call offs from framework agreements established before 26 February 2015). Failure to comply with the relevant legislation carries severe penalties.

The scope of products and services that must be quoted or tendered is:

- the supply of goods, materials and manufactured articles;
- the rendering of services including all forms of management consultancy services in line with NHSI guidelines;
- the design, construction and maintenance of building and engineering work (including construction and maintenance of grounds and gardens);
- the maintenance of equipment;

### **Requirements for services captured under the Light Touch Regime (LTR) for Health, Social, Education and certain other Service Contracts.**

LTR is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health and education services, defined by Common Procurement Vocabulary (CPV) codes. The list of services to which the Light-Touch Regime applies is set out in Schedule 3 of the Public Contracts Regulations 2015.

All contracts for services classified as Schedule 3 Services under the Public Contracts Regulations 2015, with a contract value which exceeds the applicable threshold (currently £589148) will need to be advertised in OJEU, a fair and transparent process run, and a contract award notice issued. However, Schedule 3 Service Contracts which are below the applicable threshold will be exempt from the requirement to advertise and do not need to be tendered via any particular process unless there is concrete evidence of a cross border interest. The process for awarding such service contracts must treat all bidders equally and in a fair and transparent manner. In the event of any confusion around the LTR, Procurement should be consulted.

## 21.5.2 Exceptions and Instances where Competitive Tendering need not be applied

EU tendering procedure must be followed in all cases where a proposed tender has a value in excess of one of the EU thresholds. Advice as to the current EU thresholds can be obtained from Procurement. For proposed tenders below those thresholds, competitive tendering procedures may be waived by officers to whom powers have been delegated by the Chief Executive without reference to him in the following cases. In each case, a Waiver of Tender or Single Tender Waiver document must be completed and must be supported by documentary evidence.

- (a) the timescale genuinely precludes competitive tendering (failure to plan the work properly is not a justification for a non-competitive tender);
- (b) specialist expertise is required and is available from only one source;
- (c) goods are genuinely only available from only one provider;
- (d) the task is essential to complete the project and arises as a consequence of a recently completed assignment, and engaging different consultants for the new task would be inappropriate source;
- (e) there is a clear benefit to be gained from maintaining continuity with an earlier project; however, in such cases, the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering;
- (f) this is provided for in the Annual Reporting Manual issued by Monitor;
- (g) the supply is of legal advice and services obtained in response to or anticipation of legal proceedings, provided that any legal firm or partnership commissioned by the Foundation Trust is regulated by the Law Society for England and Wales for the conduct of its business (or by the Bar Council for England and Wales in relation to the obtaining of Counsel's opinion) and is generally recognised as having sufficient expertise in the area of work for which it is commissioned; the Director of Finance will ensure that any fees paid are reasonable and within commonly accepted rates for such work;
- (h) a consortium or a national arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members.

However, non-competitive tenders will still be sought in cases where anticipated expenditure or income exceeds £25,000 but competitive tendering is waived under (b) to (f) above.

Where national arrangements referred to in (g) above (e.g. Crown Commercial Service (CCS) NHS Supply Chain and North of England Commercial Procurement Collaborative (NOECPC) apply, then the relevant framework rules whether this involves running a mini-competition or allowing a direct award under the framework. Similarly, where the Annual Reporting Manual issued by Monitor (f) above) so provides, non-competitive as well as competitive tendering procedures may be waived.

The limited application of the non-competitive tender rules should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.

### **21.5.3 Fair and Adequate Competition**

Except where 21.5.2 above applies, the Board shall ensure that invitations to tender are sent to a sufficient number of firms/individuals to provide fair and adequate competition as appropriate, and to at least three firms/individuals wherever possible, having regard to their capacity to supply the goods or materials or to undertake the services or works required. The Foundation Trust will encourage new suppliers to register their interest in dealing with it through the appropriate channels or by registering on the Foundation Trust's website.

If the Foundation Trust is not aware of three suppliers in the market who could fulfil the requirements, there must be evidence of advertising the opportunity on the appropriate portal regardless of whether the opportunity is below or above the OJEU threshold.

### **21.5.4 Building and Engineering Construction Works**

Competitive tendering cannot be waived for building and engineering construction works and maintenance without the approval of NHSI.

### **21.5.5 Items which subsequently breach Thresholds after Original Approval**

Items estimated to be below the limit set in these Standing Financial Instructions for which tendering procedures are not used, which subsequently prove to have a value above such limits, shall be reported to the Chief Executive and be recorded in an appropriate Foundation Trust record.

### **21.6 Contracting/Tendering Procedure**

Detailed tendering procedures are set out in Appendix 1.

### **21.7 Quotations: Competitive and Non-Competitive**

#### **21.7.1 General Position on Quotations**

Quotations are required where tendering procedures are not adopted under 21.5.2 above and where the intended expenditure or income exceeds, or is reasonably expected to exceed £10,000 (exclusive of VAT).

Where the potential supplier has the ability to use an e-quote system, this should be used in preference to a manual system. Detailed instructions regarding the e-quote procedure will be put in place.

#### **21.7.2 Competitive Quotations**

Quotations should be obtained from at least three firms/individuals wherever possible based on specifications or terms of reference prepared by or on behalf of the Board.

Quotations should be in writing unless the Chief Executive or his nominated officer determines that this is extreme circumstances, in which case quotations may be obtained by telephone.

Confirmation of telephone quotations should be obtained as soon as possible and the reasons why the telephone quotation was obtained should be set out in a permanent record.

All quotations should be treated as confidential and should be retained for inspection.

The Chief Executive or his nominated officer should evaluate the quotations and select the one which gives the best value for money. If this is not the lowest if payment is to be made by the Foundation Trust, or the highest if payment is to be received by the Foundation Trust, then this fact and the reasons for it should be in a permanent record.

### 21.7.3 **Non-Competitive Quotations**

Non-competitive quotations in writing may be obtained for the following purposes:

- (a) the supply of goods/services of a special character for which it is not, in the opinion of the Chief Executive or his nominated officer, possible or desirable to obtain competitive quotations;
- (b) the supply of goods/services of any kind which are required urgently and not obtainable under existing contracts;
- (c) miscellaneous services, supplies and disposals.

Where the goods or services are for building and engineering maintenance, the responsible works manager must certify that (a) and (b) are met.

### 21.7.4 **Quotations to be within Financial Limits**

No quotation shall be accepted which will commit expenditure in excess of that which has been allocated by the Foundation Trust and which is not in accordance with Standing Financial Instructions, except with the authorisation of either the Chief Executive or Director of Finance.

## 21.8 **Authorisation of Tenders and Quotations**

21.8.1 Provided that all the conditions and circumstances set out in these Standing Financial Instructions have been complied with, formal authorisation and awarding of a contract may be decided by levels of staff appropriate to the value of the contract as set out in the Scheme of Delegation.

21.8.2 These levels of authorisation may be varied.

21.8.3 Formal authorisation must be put in writing. In the case of authorisation by the Board this shall be recorded in their minutes.

## 21.9 Instances where Tenders or Quotations are not required

Where tenders or quotations are not required (because the amounts involved are less than £25,000/10,000 respectively), the Foundation Trust shall procure goods and services in accordance with procurement procedures approved by the Director of Finance.

## 21.10 Compliance Requirements for All Contracts

21.10.1 The Foundation Trust may only enter into contracts within its statutory powers and shall comply with:

- (a) the Foundation Trust's Standing Orders and Standing Financial Instructions;
- (b) EU Directives and other relevant statutory provisions, in particular note that all contracts shall provide for 30 day payment terms for undisputed invoices;
- (c) any relevant directions including the Annual Reporting Manual issued by the Monitor and Estate code;
- (d) such of the NHS Standard Contract Conditions as are applicable.

21.10.2 Contracts with Foundation Trusts must be in a form compliant with appropriate NHS guidance.

21.10.3 Where appropriate, contracts shall be in or embody the same terms and conditions of contract as was the basis on which tenders or quotations were invited.

21.10.4 In all contracts made by the Foundation Trust, the Board shall endeavour to obtain best value for money by use of all systems in place.

21.10.5 The Chief Executive shall nominate an officer who shall oversee and manage each contract on behalf of the Foundation Trust.

## 21.11 Personnel and Agency or Temporary Staff Contracts

The Chief Executive shall nominate officers with delegated authority to enter into contracts of employment regarding staff, agency staff or temporary staff service contracts.

## 21.12 Pay Rate Controls

Agreement of any off-payscale pay rates outside of the national agenda for change and medical and dental pay scales must only be done by the Director of Finance and the Director of Human Resources.

## 21.13 Cancellation of Contracts

Except where specific provision is made in model Forms of Contracts or standard Schedules of Conditions approved for use within the National Health Service, there shall be inserted in every written contract a clause empowering the Foundation Trust to cancel the contract and to recover from the contractor the amount of any loss resulting

from such cancellation, if the contractor shall have offered, given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Foundation Trust, or for showing or forbearing to show favour or disfavour to any person in relation to the contracts or any other contract with the Foundation Trust, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the

Foundation Trust the contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889 and 1916 or other appropriate legislation.

#### 21.14 **Determination of Contracts for Failure to Deliver Goods or Materials**

In every written contract there should be a clause inserted for the supply of goods or materials to secure that, should the contractor fail to deliver the goods or materials or any portion thereof within the time or times specified in the contract, the Foundation Trust may without prejudice determine the contract either wholly determined or to the extent of such default and purchase other goods or material of similar description to make good (a) such default or (b) (in the event of the contract being wholly determined) the goods or materials remaining to be delivered. The clause shall further secure that the amount by which the cost of purchasing other goods or materials exceeds the amount which would have been payable to the contractor in respect of the goods or materials, shall be recoverable from the contractor.

#### 21.15 **Disposals (see also SFI 13, Disposals and Condemnations, Losses and Special Payments)**

Tendering or quotation procedures shall not apply to the disposal of:

- (a) any matter in respect of which a fair price can be obtained only by negotiation or sale by auction as determined (or pre-determined in a reserve) by the Chief Executive or his nominated officer;
- (b) obsolete or condemned articles and stores, which may be disposed of in accordance with the policy of the Foundation Trust;
- (c) items to be disposed of with an estimated sales value of less than £10,000 (exclusive of VAT), this figure to be reviewed periodically;
- (d) items arising from works of construction, demolition or site clearance, which should be dealt with in accordance with the relevant contract;
- (e) land or buildings concerning which any relevant guidance has been issued, subject to compliance with such guidance.

Disposal of items on the asset register, which originally cost not less than £5,000 must be notified to the Finance Department. Capital Equipment costs which originally cost not less than £5,000 should include VAT.

**21.16 In-House Services**

The Chief Executive shall be responsible for ensuring that best value for money can be demonstrated for all services provided on an in-house basis. The Foundation Trust may also determine from time to time that in-house services should be market tested by competitive tendering.

The findings shall be documented and reported to the Director of Finance, for onward communication to the Board.

**21.17 Applicability of SFIs on Tendering and Contracting to Funds Held on Trust (see also SFI 16, Funds Held on Trust)**

These Instructions shall not only apply to expenditure from Exchequer funds but also to works, services and goods purchased from the Foundation Trust's Funds held on Trust.

**21.18 Confidentiality of Contract Information**

All documentation and minutes relating to contract prices shall at all times be treated as private and confidential.

## **APPENDIX 1 Detailed tendering procedures**

### **1 Use of Electronic Tendering (e-tendering)**

- 1.1 The Foundation Trust uses only electronic tendering procedures, hereinafter referred to as e-procurement.
- 1.2 The Head of Procurement, or authorised member of staff, will use e-procurement to conduct any tendering exercise or enter into any contract using e-tendering.

### **2 Invitation to Tender**

- 2.1 All invitations to tender shall state the latest date and time for the receipt of tenders.
- 2.2 Every tender for goods, materials, manufactured articles supplied as part of a works contract and services shall embody such of the main contract conditions as may be appropriate in accordance with the contract forms described in 2.3 and 2.4 below.
- 2.3 Every tender for building or engineering works, except for maintenance work only, where Estmancode guidance should be followed, shall embody or be in the terms of the current edition of the appropriate Joint Contracts Tribunal (JCT) or Department of the Environment (GC/Wks) standard forms of contract amended as appropriate. When the content of the works is primarily engineering, tenders shall embody or be in the terms of the General Conditions of Contract recommended by the Institute of Mechanical Engineers, Institution of Engineering and Technology and the Association of Consulting Engineers (Form A) or, in the case of civil engineering work, the General Conditions of Contract recommended by the Institution of Civil Engineers, the Association of Consulting Engineers and the Civil Engineering Contractors Association. The standard documents should be amended to comply with any relevant regulatory guidance and, in minor respects, to cover special features of individual projects.
- 2.4 Every tender for goods, materials, services (including consultancy services) or disposals shall embody such of the NHS Standard Contract Conditions as are applicable. Every tenderer must have given or give a written undertaking not to engage in collusive tendering or other restrictive practices.
- 2.5 Tendering based on other forms of contract may be used only after prior consultation with the Independent Regulator.

### **3 Receipt and Custody**

- 3.1 No tender submitted using e-tendering will be considered unless it is received in the format requested by the Trust in the tender documents and at the electronic address specified by the Trust and unless it is received prior to the deadline for the receipt of tenders, as stated in the tender documents.
- 3.2 The Head of Procurement, or authorised member of their staff, shall ensure that each tender is kept unopened in a single secure electronic mailbox that cannot be opened before the deadline for the receipt of tenders.

- 3.3 The system used must not allow the identity of the contractor submitting the tender to be revealed prior to the tender being opened after the deadline for the receipt of tenders.
- 3.4 The Head of Procurement, or authorised member of their staff, shall ensure that for each procurement project, the system used shall keep and, if required, produce a record showing the time and date of receipt of all tenders received.
- 3.5 Late tenders, tenders received in the wrong format or not at the notified address will not be considered and they shall be returned to the tenderer with an explanation as to why that tender has not been considered.

#### **4 Late, Incomplete and Amended Tenders**

- 4.1 Suppliers wishing to submit tenders after the due time and date may be considered only if the Chief Executive or nominated officer decides that there are exceptional circumstances such as IT system failure. The Chief Executive or nominated officer shall decide whether such tenders are admissible and whether re-tendering is desirable. Re-tendering must not be limited to only late submissions and must include all bidders. For OJEU tenders, if re-tendering is required, then the current tender process must be aborted and a new tender started with a new OJEU advert of the opportunity.
- 4.2 Evidence of technically late tenders (i.e. those dispatched in good time but delayed through no fault of the tenderer e.g. failures of the e-procurement system) must have supporting evidence stored safely in the relevant tender folder if the justification and evidence is not clearly apparent on the e-tendering portal.
- 4.3 Incomplete tenders (i.e. those from which information necessary for the adjudication of the tender is missing) and amended tenders (i.e. those amended by the tenderer on his own initiative either orally or in writing after the due time for receipt) will be rejected.
- 4.4 Necessary discussions with a tenderer of the contents of his tender, in order to elucidate technical points etc., before the award of a contract can only be carried out by the Procurement Department as part of the clarification Stage and all communications must be through the e-tendering portal and shared with all other bidders.

#### **5 Register of Tenders**

Details of all tenders, which have been invited using e-tendering, will be entered in the Register of Tenders, held by the Head of Procurement

#### **6 Acceptance**

Acceptance of tenders invited using e-tendering shall be made in accordance with rules and mandatory requirements associated with the tender and in compliance with the Standing Financial Instructions.

## 7 Use of Electronic Auctions

7.1 The Foundation Trust at its discretion may, if the category of procured goods or service is suitable, use an electronic auction to obtain tender submissions.

The Foundation Trust will follow prevailing guidance from the relevant regulatory authority or CCS to decide if an e-Auction is required.

7.2 Under Article 35 (Use of e-Auctions) of the Public Sector Directive 2014/24/EC (which is adopted in the UK by the Public Contracts Regulations 2015), in open, restricted or negotiated procedures in the case referred to in Article 35 (2) the Foundation Trust may decide that the award of a public contract shall be preceded by an electronic auction when the contract specifications can be established with precision.

7.3 The electronic auction shall be based:

- either solely on prices when the contract is awarded to the lowest price; or
- on prices and/or on the new values of the features indicated in the procurement documents, where the contract is awarded (i) on the basis of the best price-quality ratio or (ii) to the tender with the lowest cost using effectiveness approach.

7.4 Should it decide to hold an electronic auction, the Foundation Trust shall state that fact in the contract notice or invitation to confirm interest.

7.5 The procurement documents shall include, inter alia, the following details:

- (a) the features of the products whose costs shall be the subject of electronic auction, provided that such features are quantifiable and can be expressed in figures or percentages;
- (b) any limits on the values which may be submitted, as they result from the specifications relating to the subject of the contract;
- (c) the information which will be made available to tenderers in the course of the electronic auction and, where appropriate, when it will be made available to them;
- (d) the relevant information concerning the electronic auction process;
- (e) the conditions under which the tenderers will be able to bid and, in particular, the minimum differences which will, where appropriate, be required when bidding;
- (f) the relevant information concerning the electronic equipment used and the arrangements and technical specifications for connection.

7.6 Before proceeding with the electronic auction, the Foundation Trust shall make a full initial evaluation of the specification in accordance with the award criteria set and the weighting fixed for them. Clarification will also be sought via the paper-based tender route that the tenderers accept the proposed terms and conditions and that the non-collusion document has been completed.

7.7 All tenderers who have been selected shall be invited simultaneously by electronic means to submit prices and/or values. The invitation shall contain all relevant information concerning individual connection to the electronic equipment being used and shall state the date and time of the start of the electronic auction. The electronic auction may take place in a number of successive phases.

The electronic auction may not start sooner than two working days after the date on which invitations are sent out.

- 7.8 Throughout each phase of an electronic auction the Foundation Trust shall instantaneously communicate to all tenderers at least sufficient information to enable them to ascertain their relative rankings at any moment.

The Foundation Trust may also communicate points of clarification via the electronic auction process provided that the specification is not changed in any way and that the information is sent to all participants. The Foundation Trust may also at any time announce the number of participants in that phase of the auction. In no case, however, may the Foundation Trust disclose the identities of the tenderers during any phase of an electronic auction, nor the values of their bids.

- 7.9 The Foundation Trust shall close an electronic auction at either of the following times:
- (a) in the invitation to take part in the auction, the date and time shall be indicated, fixed in advance;
  - (b) closure will be when no more new prices are received, or new values which meet the requirements concerning minimum differences (in this case the Foundation Trust shall state in the invitation to take part in the auction the time which will be allowed to elapse after receipt of the last submission before the electronic auction is closed).
- 7.10 When the Foundation Trust has closed an electronic auction and satisfied itself as to specification compliance and value for money, the Foundation Trust shall award the contract in accordance with the Foundation Trust's Standing Orders and Standing Financial Instructions.
- 7.11 The Foundation Trust may not have improper recourse to electronic auctions nor may they be used in such a way as to prevent, restrict or distort competition or to change the subject of the contract as put up for tender in the published contract notice and defined in the specification.
- 7.12 Following tender approval / contract award the electronic tender documents shall be stored by the electronic auction service provider for the appropriate time period in accordance with Department of Health guidance concerning the preservation, retention and destruction of records.
- 7.13 The selection of the e-Auction service provider shall meet the following standards:
- Means of communication must not restrict access to a tendering procedure for potential participants. They must be non-discriminatory, generally available and capable of operation with IT products in general use.
  - The communication and storage of tenders must protect the integrity of the content.
- 7.14 The Foundation Trust must satisfy itself annually that the appointed service provider has the necessary protocols in place to meet the above requirements along with satisfactory archive and retrieval processes.

The process shall be fully documented by the service provider with agreed service levels. Furthermore, the Foundation Trust shall obtain a formal and independent affirmation of the controls operated by any service provider which supports electronic auctions and receive periodic updates of this assurance.

## **8 Acceptance of Tenders**

8.1 Tender must be evaluated and assessed on the basis of the evaluation criteria, sub criteria and marking schemes disclosed to the bidders in the relative tender. Tender and quotes can only be advertised and conducted based on the Most Economically

Advantageous Tender (MEAT). In considering which bid to accept, if any, the designated officers shall have regard to price, cost, total life cycle costing, sustainability and environmental factors, running costs, maintenance costs and, technical support, staffing implications, product quality, and ethical sourcing all of which must be linked to the subject matter of the contract in question. Any evaluation criteria, sub criteria or marking scheme, must be disclosed to the bidders prior to the launch of the tender in accordance with the Public Contracts Regulations 2015. If the number of tenders received does not provide adequate competition, the tender exercise may be re-launched. In such actions or in the case of doubt, the Chief Executive may be consulted for his authorisation to proceed with the award or re-conduct the tender process.

8.2 Where only one tender/quotation is received the Foundation Trust shall, as far as practicable, ensure that the price to be paid is fair and reasonable against available benchmarks.

8.3 A tender other than the lowest (if payment is to be made by the Foundation Trust) or other than the highest (if payment is to be received by the Foundation Trust) may be accepted if evaluation criteria prove that the Foundation Trust is receiving the MEAT. Where other factors are taken into account in selecting a tenderer, these must be clearly recorded and documented in the contract file. All awarded tenders will be reported to the Board highlighting whether the lowest/highest was awarded. All evaluation scores will be retained by the Foundation Trust to ensure that this can be audited and reviewed by the Board when requested.

8.4 It is accepted that for professional services such as management consultancy the lowest price does not always represent the best value for money. Other factors affecting the success of a project include:

- (a) experience and qualifications of team members;
- (b) understanding of client's needs;
- (c) feasibility and credibility of proposed approach;
- (d) ability to complete the project on time.

Where other factors are taken into account in selecting a tenderer, these must be clearly shared with the bidder, comply with the Regulation and always be recorded and documented in the contract file and the reason(s) for not accepting the lowest tender clearly stated.

8.5 No tender shall be accepted which will commit expenditure in excess of that which has been allocated by the Foundation Trust and which is not in accordance with these Standing Financial Instructions except with the authorisation of the Chief Executive.

- 8.6 The use of these procedures must demonstrate that the award of the contract was:
- (a) not in excess of the going market rate / price current at the time the contract was awarded;
  - (b) MEAT

8.7 Where the form of contract includes a fluctuation clause, all applications for price variations must be submitted in writing by the tenderer and shall be approved by the Chief Executive or nominated officer.

8.8 All tender documents, responses, communications must be retained by the Trust or the e-Tendering provider but must remain at all times the property of Bradford Teaching Hospitals NHS Foundation Trust.

8.9 If for any reason the designated officers are of the opinion that the tenders received are not strictly competitive (e.g. because their numbers are insufficient or any are amended, incomplete or qualified), no contract shall be awarded without the approval of the Chief Executive.

## **9 Tender Reports to the Board**

Tender reports to the Board will be made on an exceptional circumstance basis only. The Scheme of Delegation states for what value of tender acceptance has to be authorised by the Board.