

# Reservation of Powers to the Board and Scheme of Delegation

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Many current BTHFT policy documents contain references to the "Divisions" (Medicine, Surgery, Womens & Newborn) which were in place until 31st March 2019, when they were replaced by Clinical Business Units and Care Groups. Whilst the policies still remain valid, from 1st April 2019 all BTHFT policy should be applied in the context of the new organisational structure and its associated governance. Any queries about the application of the new governance to this policy document should be directed to the Director of Governance and Corporate Affairs.

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## INTRODUCTION

The Code of Accountability for NHS Boards and Monitor's Code of Governance requires that there should be a formal schedule of matters specifically reserved to the Board. The purpose of this document is to define those powers specifically reserved to the Board. However, the Board remains accountable for all of its functions, including those delegated to the Chairman, Chief Executive and Board members, and will therefore receive information about the exercise of delegated functions to enable it to maintain a monitoring role.

All powers of the Foundation Trust which have not been retained as reserved by the Board or delegated to a committee shall be exercised on behalf of the Board by the Chief Executive. The Scheme of Delegation identifies any functions which the Chief Executive shall perform personally and those which are delegated to other Board members and officers. All powers delegated by the Chief Executive can be re-assured by him/her should the need arise.

In the absence of the Chief Executive the powers delegated to him/her may be exercised by the Chairman after having consulted at least two non-Executive Directors.

## GOVERNORS' LEGAL RESPONSIBILITIES

The Foundation Trust has a body of elected individuals that make up the Council of Governors. Governors have a number of legal rights and responsibilities. These include:

- the appointment or dismissal of the Chairman and non-Executive Directors
- the approval of the appointment of the Chief Executive
- at a general meeting the Council of Governors will:
  - receive the annual accounts, annual report, quality report and annual audit letter from the external auditors
  - approve the remuneration and allowances and other terms and conditions of the office of the Chairman and non-Executive Directors
  - appoint or replace the Foundation Trust's auditor at a general meeting
- providing the views of the Council of Governors to the Board for the purposes of the preparation by the Board of the document containing information as to the Foundation Trust's forward planning in respect of each Financial Year to be given to Monitor
- receiving and considering the views of the Members on matters of significance to the future plans of the Foundation Trust
- approval of any amendments to the Constitution
- hold the non-Executive Directors individually and collectively to account for the performance of the Board of Directors
- represent the interests of the NHS Foundation Trust members and the public served by the Foundation Trust
- approving significant transactions that fall within the definition
- appointment and removal of the External Auditors
- approval of the increase in non-NHS income where it is 5% or more in any one year

## **1.0 Reservation of Powers to the Board**

### **1.1 General Enabling Provision**

The Board may determine any matter (for which it has delegated or statutory authority) it wishes in full session within its statutory powers.

*Powers are reserved to the Board to:*

### **1.2 Regulation and Control**

- 1.2.1 Approval, suspension, variation or amendment of Standing Orders, Reservation of Powers and Scheme of Delegation and Standing Financial Instructions for the regulation of its proceedings and business.
- 1.2.2 Approve a Scheme of Delegation of powers from the Board to Committees or Officers.
- 1.2.3 Require and receive the declarations of Board members' interests which may conflict with those of the Foundation Trust and determine the extent to which a Board member may remain involved with the matter under consideration.
- 1.2.4 Require and receive the declarations of interests from Officers which may conflict with those of the Foundation Trust.
- 1.2.5 Appoint, appraise, discipline and dismiss executive directors (subject to SO 2.6 and section 8 of the Constitution). Discipline Board members who are in breach of statutory requirements or SOs.
- 1.2.6 Approve arrangements for dealing with complaints.
- 1.2.7 Adopt the organisational structures, processes and procedures to facilitate the discharge of business by the Foundation Trust and agree modifications thereto.
- 1.2.8 Ratify any urgent decisions taken by the Chairman (and Chief Executive) in accordance with SO 4.2.
- 1.2.9 Approve arrangements relating to the discharge of the Foundation Trust's responsibilities as a corporate trustee for funds held on trust.
- 1.2.10 Approve the Foundation Trust's Major Incident Plan.
- 1.2.11 Approve arrangements relating to the discharge of the Foundation Trust's responsibilities as a bailer for patients' property.
- 1.2.12 Approve proposals for action on litigation against or on behalf of the Foundation Trust.

### **1.3 Appointments**

- 1.3.1 Appoint and dismiss Board Committees.
- 1.3.2 Establish terms of reference and reporting arrangements for Board Committees.
- 1.3.3 Appoint members of all Board Committees.
- 1.3.4 Receive reports from all Board Committees and take appropriate action on these.
- 1.3.5 Confirm the recommendations of Board Committees where the committees do not have executive powers.
- 1.3.6 Appointment of the Vice Chairman
- 1.3.7 Appointment of any representative body outside the organisation

### **1.4 Strategy, Business Plans and Budgets**

- 1.4.1 Define the strategic aims and objectives of the Foundation Trust.
- 1.4.2 Approve annually revenue and capital budgets.
- 1.4.3 Approve and monitor the Foundation Trust's policies and procedures for the management of risk.
- 1.4.4 Ratify proposals for the acquisition, disposal or change of use of land and/or buildings (subject to meeting the requirements set by Monitor in the Foundation Trust's Provider Licence).
- 1.4.5 Approve proposals for ensuring quality and developing clinical governance in services provided by the Foundation Trust.
- 1.4.6 Approve proposals for ensuring equality and diversity in both employment and the delivery of services.
- 1.4.7 Approve the Foundation Trust's investment policy and authorise institutions with which temporary cash surpluses may be held.
- 1.4.8 Approve the Foundation Trust's borrowing policy, which will include other long-term financing arrangements such as leases.
- 1.4.9 Authorise any necessary variations to total budget spends of capital schemes of more than 20% or £500,000, whichever is greater. Authorise any increase in the total capital programme.

## **1.5 Financial and Performance Reporting Arrangements**

- 1.5.1 Continuously appraise the affairs of the Foundation Trust by means of the receipt of reports as it sees fit from Board members, committees, and officers of the Foundation Trust as set out in management policy statements.

All monitoring returns required by NHSI and the Charity Commission shall be reported, at least in summary, to the Foundation Trust.

- 1.5.2 Approve the opening and closing of all bank and investment accounts.
- 1.5.3 Consider and approve the Foundation Trust's Annual Report, including the annual accounts, prior to submission to the Council of Governors.
- 1.5.4 Receive and approve the annual report(s) for funds held on trust.
- 1.5.5 Receive reports from the Director of Finance on financial performance against budget and annual business plan.

## **1.6 Audit Arrangements**

- 1.6.1 Receive reports of Audit and Assurance Committee meetings and take appropriate action.
- 1.6.2 Receive the annual management letter from the external auditor and agree action on the recommendation where appropriate of the Audit and Assurance Committee.

## **Reservation of Powers to the Board and Scheme of Delegation**

The following delegation table below provides a framework for decision making responsibilities within the Foundation Trust. Directors are responsible for ensuring that all staff operates within the Scheme of Delegation and in accordance with Standing Orders and Standing Financial Instructions. The Scheme of Delegation identifies the lowest level to which a particular responsibility may be delegated. There is no requirement for Directors to delegate to this level.

The levels of management/delegation referred to in this scheme are as follows:

- Chief Executive (In the absence of the Chief Executive, urgent matters may be dealt with by the Chairman after having consulted at least two non-Executive Directors).
- Director of Finance (In the absence of the Director of Finance, urgent matters may be dealt with by the Deputy/Assistant Director of Finance)
- Other Executive Directors
- the Foundation Trust Secretary
- Relevant General Managers

It is for Executive Directors to identify within their directorate those officers whom they wish to authorise (Authorised Signatories) to exercise delegated authority within this Scheme of Delegation. The Finance Department maintain a register of authorised signatories and will require sample signatures to support the register. Forms for this purpose of registering authorised signatories are available from the Financial Management section staff within the Finance Directorate.

<b>1. Delegation of budgets and approval to spend funds</b>		
SFI 3.1.1	Annual Business Plan	Chief Executive
SFI 3.3	Budgetary Control	Director of Finance
SFI 8.3	Approval of new staff appointments and re-grading	Chief Executive
SFI 8.4	Approval of pay expenditure (staff timesheets)	General Manager, Executive Director, Director of Estates and Facilities, Director of Pharmacy, Director of Research
<b>Authorisation of requisitions/invoices for non-pay expenditure:</b>		
	Up to £100,000	General Manager, Executive Director, Director of Estates and Facilities, Director of Pharmacy, Director of Research
	Over £100,000 up to £250,000	Director of Finance
	Over £250,000 up to £,500,000	Director of Finance and Chief Executive
	Over £500,000	The Board (authorisation of requisition), Chief Executive or Director of Finance (authorisation of invoice)
	NB. The relevant division Executive Director and the Director of Finance will determine and agree appropriate values for further delegation.  Non-pay expenditure for which no specific budget has been set within delegated budget plans.	Chief Executive or Director of Finance
	Approval of routine expenses claims	Line Manager.



SFI 9.2.4	<b>Pre-payments</b>	
	Submission of written report detailing exceptional circumstances for pre-payment required to Director of Finance for agreement prior to proceeding with contractual agreement.(taking account the EU public procurement rules where the contract is above a stipulated financial threshold)	Divisional Manager and Director of Finance
<b>2. Operation of all detailed financial matters</b>		
SFI 5	Approve the opening, closing and management of all bank and investment accounts.	Director of Finance
SFI 8.4	Payroll.	Director of Finance
SFI 9.2.2 & 9.2.3	Purchase ledger/creditor payments.	Director of Finance
SFI 9.2.6 (k) & (l)	Petty cash and purchase card.	Director of Finance
	Debtors.	Director of Finance
	Treasury management.	Director of Finance
<b>3. Income Systems</b>		
SFI 6	System design, prompt banking, review and approval of fees and charges, debt recovery arrangements, design and control of receipts, for provision of adequate facilities and systems for employees whose duties include collecting or holding cash.	Director of Finance

<b>4. Annual capital programme and capital expenditure proposals</b>		
SFI 11.1 – 11.1.9	Total budget spend of each capital scheme may be varied by <del>£500,000,</del> subject to capital programme remaining within budget.	Director of Finance
	Total budget spend of each capital scheme may be varied by <del>£1,000,000,</del> subject to capital programme remaining within budget.	Chief Executive
	A business case to be prepared for capital expenditure proposals of value over £20,000 where this is related to the replacement of existing assets.	
	For the new items the Foundation Trust's Service Development Guidelines <u>must</u> be followed.	Relevant General Manager
<b>5. Arrangements for the management of land, buildings and other assets belonging to or leased by the Foundation Trust</b>		
SFI 11.3 - 5	Physical management and maintenance of assets.	
	Land and buildings.	Director of Estates and Facilities
	Equipment.	Relevant General Manager
	Asset register and capital charges.	Director of Finance
<b>6. Management and control of stocks</b>		
SFI 12	Theatres.	General Manager
	Pharmacy.	Director of Pharmacy
	Estates.	Director of Estates
	Other stocks.	Relevant General Manager

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<b>7. Recording, monitoring and approval of payments under the losses and special payments regulations</b>		
SFI 13.2	Monitoring and approval of losses and special payments.	Chief Executive and Director of Finance
	Accounting for losses and special payments.	Director of Finance
	General Administration.	Relevant General Manager
	<b>Write-offs</b> NB. Written reports on write-offs are provided to the Audit Committee.	
	<b>Drugs.</b>	
	Up to £5000 Over £5000	Director of Pharmacy Director of Finance
	<b>Other items.</b>	
	Up to £10,000 Over £10,000	Divisional Clinical Director Director of Finance
	<b>Cash losses and bad debts:</b> NB. A bad debt write-off for these purposes is the writing off of any income due to the Foundation Trust, whether or not invoiced – it does not include adjustments relating to invoices raised in error. These write-offs once agreed will impact on individual budgets – there is no central provision. If the budget holder does not agree to a write-off being charged to their budget, this should be escalated to the Director of Finance.	
	NB. Written reports on write-offs are provided to the Audit Committee. Up to £5,000.00	<u>Deputy Director of Finance,</u>
	Over £5,000.00 up to £10,000	Director of Finance
	Over £10,000	Chief Executive and Director of Finance
	<b>Overpayment of Staff Salaries</b>	

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**There is the expectation that any overpayment of salary to staff or leavers will be fully recovered.**

	Up to £10,000	Director of Finance
	Over £10,000	the Board
<b>Losses of equipment and property:</b> NB. These write-offs once agreed will impact on individual budgets – there is no central provision. NB. Written reports on write-offs are provided to the Audit Committee.		
	Up to £10,000	Director of Finance
	Over £10,000	the Board
SFI 18	<b>Claims</b>	
	<b>Clinical negligence/personal injury</b>	
	All payments over the relevant excess (zero for clinical negligence, £3,000 for employer's liability and £10,000 for public liability) are approved and made directly by the NHS Litigation Authority – however, the NHSLA still requires the agreement of the Foundation Trust for all admissions.	NHS Litigation Authority (NHSLA) and Chief Executive or Divisional Clinical Director
	<b>Claims settled without legal advice:</b>	
	Total costs, including damages, claimant and defence costs up to £10,000	Claims Manager
	Over £10,000	Any two of: Claims Manager, Medical Director, Director of Finance or Deputy Chief Executive
	Over £50,000	Claims Management Group, Director of Finance and Chief Executive
	<b>Negotiated settlements with legal advice (i.e. out of court settlements):</b>	
	Total costs up to £100,000	Claims Manager and Director of Finance -
	Over £100,000	Claims Management Group and Chief Executive

	<b>Payments made under full legal obligation:</b>	
	Total cost approved by the NHSLA	Claims Manager and reported to Claims Management Group
	<b>Other Claims (not clinical negligence/personal injury):</b>	
	Compensation claims arising out of legal action	Such payments may require NHSI and HM Treasury approval. Advice should be obtained from the Director of Human Resources or Trust Secretary.
	Up to £50,000	Director of Finance
	Over £50,000	the Board
	<b>Extra-contractual payments to contractors; other compensatory payments:</b>	
	Up to £5,000	Director of Finance
	Over £5,000	the Board
SFI 18	<b>Complaints</b>	
	<b>Ex-gratia payments made in respect of complaints</b>	
	Up to a £1,000	Relevant General Manager with notification to Claims Manager
	Over £1,000 up to £5,000	Relevant General Manager and Claims Manager
	Over £5,000	the Board
<b>8. Disposal of deceased patients' property:</b>		
SFI 15.5	<b>Property value up to £5,000:</b>	

SCHEME OF DELEGATION		
Reference (where applicable)	Delegated responsibility	Delegated officer (s)
	Cash up to £100 and all valuables may be released to relatives who sign form of indemnity.	Deputy/Assistant Director of Finance
	Cash over £100 may be released by cheque together with all valuables to relatives who sign a form of indemnity.	Deputy/Assistant Director of Finance
	<b>Property of value over £5,000:</b>	
	Cash over £100 may be released by cheque together with all valuable on production of probate letters or administration.	Director of Finance
<b>9. Management of non-exchequer funds</b>		
SFI 16	<b>Charitable funds</b>	
	<b>Approval of expenditure</b>	
	Up to £500.00	Fund Holder
	Over £500 up to £10,000	General Manager, Patient Services Manager and Director of Finance
	Over £10,000 up to £50,000	Director of Finance and Chief Executive
	Over £50,000 up to £100,000	Chief Executive, Chairman and Director of Finance
	Over £100,000	Bradford Hospitals Charity
	Payment of salaries from charitable funds and recharges of salaries by the Foundation Trust.	Director of Finance
	Financial administration	Director of Finance
	General administration	Director of Finance

SCHEME OF DELEGATION		
Reference (where applicable)	Delegated responsibility	Delegated officer (s)
	Investment of funds	Director of Finance
	<b>Patients' monies</b>	
	Nursing	Chief Nurse
	Financial administration	Director of Finance
<b>10. Insurance Arrangements</b>		
SFI 18.3	Ensure that insurance arrangements exist in accordance with the risk management programme.	Director of Finance
<b>11. Non clinical risk management</b>		
SFI 18	Ensure that the Foundation Trust has a programme of risk management in place.	Chief Executive
<b>12. Business Conduct and Hospitality</b>		
SFI 20	Ensure staff members are aware of the Foundation Trust Policy on acceptance of gifts and Standards of Business Conduct for NHS Staff in accordance with the Standing Orders and Financial Instructions.	Foundation Trust Secretary
<b>13. Issuing, receiving and opening tenders and post tender negotiations</b>		
SFI 21	<b>Tendering/Quotation thresholds for the procurement of goods and services (<del>excluding</del> VAT).</b>	
	Over £10,000 up to £25,000: Competitive quotations required (non-competitive quotation may be permissible).	Head of Procurement or Director of Estates and Facilities or Director of Pharmacy

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	Over £25,000 up to EU current threshold excluding VAT (advice on this to be obtained from Procurement): Competitive tenders required (non-competitive tender may be permissible).	Head of Procurement or Director of Estates and Facilities or Director of Pharmacy
	Over EU threshold: EU public procurement applicable	Head of Procurement or Director of Estates and Facilities or Director of Pharmacy
NB. Standing Financial Instructions provides detailed guidance and Procurement can be contacted for advice.		
<b>Approval to waive competitive tendering or quotation procedures (only where EU thresholds are not crossed)</b>		
	<del>PCR 2015 threshold for procurement of goods and services (£189,330)</del>	<del>Deputy Director of Finance and Strategic Head of Procurement</del>
	<del>Over PCR 2015 threshold for procurement of goods and services (£189,330)</del>	<del>Director of Finance and Chief Executive</del>
<b>Selection of Tenders</b>		
	Capital	Director of Estates and facilities or Deputy/Assistant Director of Finance
	Non-Capital	Director of Estates and Facilities or Deputy/Assistant Director of Finance or Nominated deputy
<b>Opening of Tenders</b>		
	Electronic tendering	Any authorised electronic tendering system user. (The system logs the details of the user accessing the documentation in the system)
<b>Acceptance of tenders (all values are for the lifetime of the contract <del>exclusive</del> of VAT)</b>		
Up to £100,000		

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## SCHEME OF DELEGATION

Reference (where applicable)	Delegated responsibility	Delegated officer (s)
	Lowest Cost	Relevant Director/General Manager/ Director of Estates and Facilities
	Not lowest cost	Director of Finance
	Over £100,000 up to £500,000	
	Lowest cost	Director of Finance
	Not lowest cost	Chief Executive or Director of Finance
	Over £500,000	
	Lowest cost	Chief Executive and Director of Finance
	Not lowest cost	the Board
	Over £1,000,000	the Board

### 14. Management and control of computer systems and facilities

SFI 14.1.1	Accuracy and security of computerised financial data systems	Director of Informatics
SFI 14.1.3	Publish and maintain Freedom of Information (FOI)	Communications Manager

### 15. Appointment of consultant medical staff

SFI 8.3.3 Appointment of new Consultant Medical Staff only after submission and approval of a business case.

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SCHEME OF DELEGATION		
Reference (where applicable)	Delegated responsibility	Delegated officer (s)
<b>17. Engagement of temporary workers, particularly agency staff</b>		
SFI 21.11	Authority to enter into contracts of employment for staff, agency staff or temporary staff service contracts.	
	Professional groups other than Nursing and Medical	Vacancy Approval Panel
	Nursing staff via the Flexible Workforce TeamOffice	Director of HR
	Medical Staff via the Flexible Workforce Teamat Human Resources	Director of HR
<b>18. Use of directed surveillance</b>		
	Directed surveillance that is carried out by the Foundation Trust is subject to strict controls.	This can <b>only</b> be authorised by the Police or NHS Protect (Counter Fraud Service).
<b>19. Submission of tenders</b>		
SFI 21	Up to £100,000	Relevant Director, General Manager, Director of Estates and Facilities
	Over £100,000 up to £1,000,000	Director of Finance or Chief Executive
	Over £1,000,000	the Board
<b>20. Signing of documents and contracting for the receipt of provision of goods and services</b>		
	<b>Documents to be sealed or signed as a deed.</b>	Any two Directors or one Director and the Foundation Trust Secretary
	<b>Contracts for the receipt of goods and services</b>	

SCHEME OF DELEGATION		
Reference (where applicable)	Delegated responsibility	Delegated officer (s)
	Up to £10,000	General Manager and Head of Procurement or Director of Estates and Facilities or Director of Pharmacy
	Over £10,000 up to OJEU threshold of £164176excluding VAT	Deputy/Assistant Finance Director
	Over OJEU threshold of £164176excluding VAT	Director of Finance or Chief Executive
<b>Non-NHS Contracts– approval</b>		
	Approval for Non-NHS Contracts provided to the Foundation Trust in line with the Scheme of Delegation	Director of Finance or Deputy/ Assistant Finance Director and the relevant General Manager and Executive Director
<b>Tendering for and signing Contracts for the provision of goods/services to other organisations (including Research Grants and Commercial Research Contracts)</b>		
	Up to £100,000	General Manager and Head of Procurement or Director of Estates and Facilities or Director of Pharmacy Director of Research
	Over £100,000 up to £1,000,000	Director of Finance or Chief Executive
	Over £1,000,000	The Board
	<b>Research grant applications, awarded research grants and subsequent sub-contracts to other organisations</b>	General Manager for Research and Finance Manager for Research
	<b>R &amp; D</b>	
	<b>Application Value (over life of the grant) Authorisation level required</b>	
	Up to £250,000	General Manager – Research

SCHEME OF DELEGATION		
Reference (where applicable)	Delegated responsibility	Delegated officer (s)
	£250,000 to £1,000,000	Director of Research
	Over £1,000,000	Director of Research
	<b>Finance</b>	
	<b>Application Value (over life of the grant) Authorisation level required</b>	
	Up to £250,000	Finance Manager – R & D
	£250,000 to £1,000,000	Deputy Director of Finance
	Over £1,000,000	Director of Finance