



Bradford Teaching Hospitals
NHS Foundation Trust

Constitution

Approved by Council of Governors: ~~18-15 July 2021~~ [January 2018](#)
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CONTENTS

1	DEFINITIONS	3
2	NAME	5
3	PRINCIPAL PURPOSE.....	5
4	POWERS.....	5
5	FRAMEWORK	5
65	MEMBERS.....	6
6.15.1	Constituencies	6
6.25.2	Public Constituency	6
6.35.3	Staff Constituency	7
6.45.4	Patients Constituency	8
6.55.5	Disqualification for Membership	9
6.65.6	Termination of Membership	9
6.75.7	Voting at Governor Elections	9
6.85.8	Annual Members' Meeting	9
76	COUNCIL OF GOVERNORS.....	10
7.16.1	Composition of the Council of Governors	10
7.26.2	Public governors	11
7.36.3	Patient Governors	11
7.46.4	Staff Governors	11
7.56.5	Role of Partnership Governors	12
7.66.6	University Governors	12
7.76.7	Local Authority Governors	12
7.86.8	Terms of Office	12
7.96.9	Termination of tenure	13
7.106.10	Disqualification	14
7.116.11	Vacancies	15
7.126.12	Duties and Responsibilities of Governors	16
7.136.13	Declaration of Interests	17
7.146.14	Expenses	19
7.156.15	Remuneration	20
7.166.16	Meetings	20
87	BOARD OF DIRECTORS	21
8.1	Composition of the Board of Directors.....	21
8.2	Terms of office	23
8.3	Disqualification	23
8.4	Duties, Roles and Responsibilities	24
9	MEETINGS OF THE BOARD OF DIRECTORS	25
10	CONFLICTS OF INTERESTS DIRECTORS	26
11	REGISTERS	28
12	PUBLIC DOCUMENTS	29
13	EXTERNAL AUDITOR.....	30
14	ACCOUNTS.....	30
15	ANNUAL REPORTS, FORWARD PLANS AND NON-NHS WORK.....	31
16	INDEMNITY	33
17	INSTRUMENTS	33
18	DISPUTE RESOLUTIONS PROCEDURES	33
19	AMENDMENT OF THE CONSTITUTION	33
20	MERGERS ETC. AND SIGNIFICANT TRANSACTIONS	34
	ANNEX 1: PUBLIC CONSTITUENCIES OF THE TRUST	36
	ANNEX 2: MODEL ELECTION RULES 2014	37

BRADFORD TEACHING HOSPITALS NHS FOUNDATION TRUST
(A PUBLIC BENEFIT CORPORATION)

CONSTITUTION

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

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

~~References to legislation include all regulations, statutory guidance or directions. Headings are for ease of reference only and are not to affect interpretation.~~

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

1. DEFINITIONS

In this Constitution:-

"the 2006 Act"	means the NHS Act 2006 as amended by the 2012 Act ;
"the 2012 Act"	means the Health and Social Care Act 2012 ;
"Annual Members Meeting"	means the Annual Meeting of Members open to members of the public;
"Area of the Foundation Trust"	means the area, consisting of all the areas, specified in Annex 1, as an area for a public constituency;
"Board of Directors"	means the Board of Directors as constituted in accordance with this Constitution;
"Council of Governors"	means the Council of Governors as constituted in accordance with this Constitution;
"Director"	means a member of the Board of Directors;
"Financial year"	means- (a) the period beginning with the date on which the Foundation Trust is authorised and ending with the next 31st March; and (b) each successive period of twelve months beginning with 1st April;

"Governor"	means a member of the Council of Governors;
"Local Authority Governor"	means a member of the Council of Governors appointed by one or more local authorities whose area includes the whole or part of the area of the Foundation Trust.
"Member"	means a member of the Foundation Trust;
"Monitor"	means the body corporate known as Monitor, as provided by;
"Non-Executive Director"	means the Non-Executive Directors of the Board of Directors including the Chair;
"Other Partnership Governor"	means a member of the Council of Governors appointed by a partnership organisation other than a local authority or university providing a medical or dental school to the Foundation Trust;
"Patient"	means an individual who has attended any of the Foundation Trust's hospitals or clinics, whether NHS or private, at any time;
"Carer"	means an individual who has attended any of the Foundation Trust's hospitals or clinics as a carer of a patient other than an individual providing care in pursuance of a contract (including a contract of employment), or as a volunteer for a voluntary organization
"Patient Governor"	means a member of the Council of Governors elected by the members of the Patient Constituency
"Public Governor"	means a member of the Council of Governors elected by the members of the Public Constituency;
"Secretary"	means the Secretary of the Foundation Trust or any other person appointed to perform the duties of the Secretary of the Foundation Trust;
"Staff Governor"	means a member of the Council of Governors elected by the members of a Staff Class;
"Standing Orders"	means the Standing Orders of the Foundation Trust

“the Foundation Trust” means Bradford Teaching Hospitals NHS Foundation Trust;

“University Governor” means a member of the Council of Governors appointed by a University providing medical or dental hospital or professional training to the Foundation Trust.

2 NAME

2.1 The name of the Foundation Trust is "Bradford Teaching Hospitals NHS Foundation Trust".

3 PRINCIPAL PURPOSE

3.1 The principal purpose of the Foundation Trust is the provision of goods and services for the purposes of the health service in England.

3.2 The Foundation Trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.

3.3 The Foundation Trust may provide goods and services for any purposes related to –

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

3.3.2 the promotion and protection of public health.

3.4 Subject to paragraph 15 the Foundation Trust may also carry on activities other than those mentioned in the above paragraph for the purpose of making additional income available in order to better carry on its principal purpose.

4 POWERS

4.1 The powers of the trust are set out in the 2006 Act.

4.2 All the powers of the trust shall be exercised by the Board of Directors on behalf of the trust.

4.3 Any of these powers may be delegated to a committee of directors or to an executive director.
~~The Foundation Trust is to have all the powers of an NHS Foundation Trust set out in Chapter 5 of the 2006 Act.~~

5 FRAMEWORK

~~The activities of the Foundation Trust are to be conducted by the Board of Directors, Council of Governors and members of the Foundation Trust. In particular:-~~

~~The Board of Directors is to direct the day to day affairs of the Foundation Trust;~~

~~The Board of Directors, in co-operation with the Council of Governors, is to set the strategic direction of the Foundation Trust and targets for the Foundation Trust's performance;~~

~~The Council of Governors is to monitor the activities of the Foundation Trust with a view to securing that they are being conducted in a manner consistent with the Foundation Trust's statutory purposes;~~

~~The Council of Governors is to monitor the performance of the Foundation Trust against the strategic direction and the targets with a view to satisfying itself that the Board of Directors is fulfilling its responsibilities in this regard; and~~

~~The members of the Foundation Trust are to elect from their respective Constituencies the elected Governors, and may take part in consultation and opinion testing exercises conducted by the Foundation Trust, and attend open meetings of the Foundation Trust.~~

65 MEMBERS

6.15.1 Constituencies

The Foundation Trust is to have members, each of whom shall be a member of one of the membership Constituencies, namely -

- (a) The "Public Constituencies",
- (b) a "Staff Constituency" and,
- (c) a "Patients' Constituency".

6.25.2 Public Constituency

~~6.2.15.2.1~~ The Public Constituencies are to be known by the names listed in column 1 of Annex 1.

~~6.2.25.2.2~~ Members of the Foundation Trust who are members of the Public Constituency listed in column 1 of Annex 1 are to be individuals:

- (a) who are at least 16 years old and live in the area specified for that Constituency in the corresponding entry in column 2 of that Annex; and
- (b) who are not eligible to become a member of the Staff Constituency and are not members of any other constituency or are otherwise disqualified from membership under paragraph 6.5; and
- (c) who have made an application for membership to the Foundation Trust. Membership is potentially available to all these individuals, and the Foundation Trust is to use its best endeavours to ensure that, taken as a whole, the actual membership of the Foundation Trust's Public Constituencies that fall within the Bradford Metropolitan District Council area is representative of those eligible for membership.

6.2.35.2.3 The minimum number of members required for each Public Constituency is to be the number given in column three of Annex 1.

6.35.3 **Staff Constituency**

6.3.45.3.1 The staff constituency shall be divided into four classes of individuals as follows:

- a) Medical and Dental practitioners staff class;
- b) Nurses and Midwives staff class
- c) Allied Health Professionals and Scientists class
- d) All Other Staff Class

6.3.25.3.2 The members of the Medical and Dental Staff Class are individuals who are members of the Staff Constituency who are fully registered within the meaning of the Medicines Act 1956.

6.3.35.3.3 The members of the Nurses and Midwives Staff Class are individuals who are members of the Staff Constituency who are registered Nurses or registered Midwives.

6.3.45.3.4 The members of the Allied Health Professionals and Scientists Staff Class are members of the Staff Constituency whose regulatory body falls within the remit of the Council for the Regulation of Health Care Professionals established by section 25 of the NHS Reform and Health Care Professionals Act 2002, except that they are not registered Nurses or Midwives

6.3.55.3.5 The members of the All Other Staff Class are members of the Staff Constituency who do not come within paragraphs 6.3.2 to

6.3.4 above.

~~6.3.6~~5.3.6 Members of the Foundation Trust who are members of the Staff Constituency are to be individuals who:

- a) are employed under a permanent contract of employment by the Foundation Trust; or
- b) are individuals who are not so employed but who nevertheless exercise functions for the purposes of the Foundation Trust; and
- c) who satisfy the minimum duration requirements set out in paragraph 3 of Schedule 7 to the 2006 Act; and
- d) have made an application for membership of the Foundation Trust; or

~~e) — a) on appointment shall become a member of the appropriate class within the Staff Constituency without an application being made, unless they inform the Foundation Trust that they do not wish to become a member, are invited by the Foundation Trust to be a member of the Staff Constituency as a member of the appropriate class within the Staff Constituency shall become a member of the Foundation Trust without an application being made, unless they inform the Foundation Trust that they do not wish to accept the invitation~~

~~6.3.7~~5.3.7 The minimum number of members of each Staff class is to be 100.

~~6.3.8~~5.3.8 A person who is eligible to be a member of the Staff Constituency may not become or continue to be a member of any Constituency other than the Staff Constituency and may not become or continue to be a member of more than one Staff class.

~~6.4~~5.4 **Patients Constituency**

~~6.4.1~~5.4.1 The members of the Foundation Trust who are members of the Patient Constituency are individuals:

- a) who are at least 16 years old and have attended any of the Foundation Trust's hospitals or clinics as a patient (as defined within this Constitution), or
- b) the carer of a Patient as identified in 6.4.1 a), and
- c) is not eligible to become a member of the Staff Constituency and are not members of any other Constituency and are not

otherwise disqualified from membership, and has a postcode outside of the BMDC area, and

d) has made an application for membership of the Foundation Trust, ~~or~~

~~e) has been invited by the Foundation Trust to become a member of the Patients Constituency without an application being made, unless they inform the Foundation Trust that they do not wish to accept the invitation.~~

~~6.4.25.4.2~~ The minimum number of members required for the Patients' Constituency is to be 100.

~~6.5.5~~ **Disqualification for Membership**

~~6.5.15.5.1~~ A person may not be a member of the Foundation Trust ;

- (a) Unless they are of 16 years of age or over.
- (b) If they have demonstrated aggressive or violent behaviour towards Foundation Trust staff, that is, if a Warning Letter has been issued to them under Stage 3 of the Foundation Trust's Policy for Withholding Treatment from Violent and Abusive Patients, a final Written Warning has been issued under Stage 4, or, they have been asked to leave, have been removed or excluded from the Foundation Trust's premises under the Policy.

~~6.5.25.5.2~~ It is the responsibility of the member to ensure their eligibility and not the Foundation Trust, but where the Foundation Trust is on notice that a member may be disqualified from membership, the Secretary shall carry out all reasonable enquiries to establish if this is the case.

~~6.6.6~~ **Termination of Membership**

~~6.6.15.6.1~~ A member shall cease to be a member if they:-

- (a) Resign by notice to the Secretary
- (b) Cease to fulfil the requirements of paragraphs 6.2, 6.3 or 6.4
- (c) Become disqualified from membership by reason of paragraph 6.5.1(b)

~~6.7.7~~ **Voting at Governor Elections**

~~6.7.15.7.1~~ A person may not vote at an election for a Public or Patient

Governor unless within the specified period they have made a declaration in the specified form stating the particulars of their qualification to vote as a member of the Constituency for which an election is being held. It is an offence knowingly or recklessly to make such a declaration which is false in any material particular.

6.8.5.8 Annual Members' Meeting

6.8.15.8.1 The Foundation Trust shall hold an annual meeting of its members ('Annual Members' Meeting'). The Annual Members' Meeting shall be open to members of the public.

6.8.25.8.2 The following documents shall be presented to the members of the Foundation Trust at the Annual Members Meeting by at least one member of the Board of Directors:

- a) the Annual Accounts;
- b) any report of the External Auditor on the Annual Accounts;
and
- c) the Annual Report

The Foundation Trust may combine a meeting of the Council of Governors convened for the purposes of being presented with the above documents with the Annual Members' Meeting.

6.8.35.8.3 In accordance with paragraph 19 of this Constitution where an amendment has been made to the Constitution in relation to the powers or duties of the Council of Governors, members must be given the opportunity to vote at the Annual Member's Meeting on whether they approve the amendment.

76 COUNCIL OF GOVERNORS

7.16.1 Composition of the Council of Governors

7.1.16.1.1 The Foundation Trust shall have a Council of Governors. It shall consist of Public Governors, Staff Governors, Patient Governors, University Governors, Local Authority Governors and other Partnership Governors.

7.1.26.1.2 The Council of Governors shall include:

- (a) 11 Public Governors
- (b) 2 Patient Governors
- (c) 4 Staff Governors

- (i) 1 being elected by the Medical and Dental Practitioners Class
 - (ii) 1 being elected by the registered Nurses and Midwives Class
 - (iii) 1 being elected by the Allied Health Professionals and Scientists Class
 - (iv) 1 being elected by the All Other Staff Class
- (d) 1 Local Authority Governor
- (e) 2 University Governors

~~7.1.36.1.3~~ The aggregate number of members of Public Governors and Patient Governors is to be more than half the total membership of the Council of Governors.

~~7.26.2~~ **Public Governors**

~~7.2.16.2.1~~ Members of a Public Constituency may elect any of their number to be a Public Governor from within their constituency according to the Election Scheme.

~~7.2.26.2.2~~ If contested, the election will be by secret ballot.

~~7.2.36.2.3~~ The Election Scheme, including the process for ratifying Governors if the election is uncontested, is set out in Annex 2.

~~7.2.46.2.4~~ A person may not stand for election to the Council of Governors as a Public Governor unless they have made a declaration in the form specified in Annex 2 of their qualification to vote as a member for the Public Constituency for which the election is being held and is not prevented from being a member of the Council of Governors by paragraph 8 to Schedule 7 of the 2006 Act or paragraph 7.10 below. It is an offence to knowingly or recklessly make a declaration under paragraph 60 of the 2006 Act which is false in a material particular.

~~7.2.56.2.5~~ Paragraph 6.7.1 (voting at Governor elections) applies.

~~7.36.3~~ **Patient Governors**

~~7.3.16.3.1~~ Members of the Patient Constituency may elect any of their number to be a Patient Governor.

~~7.3.26.3.2~~ If contested the election must be by secret ballot.

~~7.3.36.3.3~~ The election scheme is set out in Annex 2

~~7.3.46.3.4~~ A person may not stand for election to the Council of

Governors as a Patient Governor unless within the period specified in Annex 2 they have made a declaration in the form specified in Annex 2 of the particulars of their qualification to vote as a member of the Patients' Constituency and is not prevented from being a member of the Council of Governors by paragraph 8 to Schedule 7 of the 2006 Act or paragraph 7.10 below. It is an offence to knowingly or recklessly make a declaration under paragraph 60 of the 2006 Act which is false in a material particular.

~~7.3.56.3.5~~ Paragraph 6.7.1-(voting at Governor elections) applies.

~~7.46.4~~ **Staff Governors**

~~7.4.16.4.1~~ Members of a Class of the Staff Constituency may elect any of their number to be a Staff Governor from within that Class.

~~7.4.26.4.2~~ If contested, the election will be by secret ballot.

~~7.4.36.4.3~~ The Election Scheme is set out in Annex 2

6.5 **Role of Partnership Governors**

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6.5.1 Subject to the overriding principle that the Governors' first

~~7.4.46.5.2~~ responsibility is to the Council of Governors and the Trust

The role of Governors appointed as Local Authority Governors, University Governors and other Partnership Governors shall in addition to their general responsibilities as Governors be:

- a) to speak with authority for the organisation they represent and be able to explain its policies;
- b) to support the role of the Council of Governors as set out in paragraph 7.12;
- c) to represent the Foundation Trust to the organisation they represent.

~~7.4.56.5.3~~ The appointment of Local Authority Governors, University Governors and other Partnership Governors shall be in accordance with a process agreed with the Secretary of the Foundation Trust.

~~7.56.6~~ **University Governors**

~~7.5.16.6.1~~ The University of Leeds and the University of Bradford shall each appoint a University Governor.

~~7.66.7~~ **Local Authority Governors**

~~7.6.16.7.1~~ The Bradford Metropolitan District Council shall appoint one Local Authority Governor.

~~7.7.6.8~~ **Terms of Office**

~~7.7.16.8.1~~ Public Governors, Staff Governors and Patient Governors;

- (a) may hold office for a period of three years
- (b) are eligible for re-election at the end of that period; and
- (c) may not hold office for longer than nine consecutive years.

~~7.7.26.8.2~~ Local Authority Governors;

- (a) may hold office for a period of three years
- (b) are eligible for reappointment at the end of that period; and
- (c) may not hold office for longer than nine consecutive years.

~~7.7.36.8.3~~ University Governors;

- (a) may hold office for a period of three years;
- (b) are eligible for reappointment at the end of that period; and
- (c) may not hold office for longer than nine consecutive years.

~~7.7.46.8.4~~ Other Partnership Governors;

- (a) may hold office for a period of three years;
- (b) are eligible for reappointment at the end of that period; and
- (c) may not hold office for longer than nine consecutive years.

~~7.8.6.9~~ **Termination of tenure**

~~7.8.16.9.1~~ A Governor may resign from that office at any time during the term of that office by giving notice in writing to the Secretary.

~~7.8.26.9.2~~ If the Governor fails to attend two consecutive meetings of the Council of Governors ~~his~~[their](#) tenure of office is to be terminated one month following the second meeting unless in the meantime they have satisfied the Chair that:

- a) the absence was due to a reasonable cause; and

- b) they will be able to start attending meetings of the Council of Governors again within such a period as the Chair considers reasonable.

~~7.8.36.9.3~~ If the Governor fails to attend a training session for Governors as recommended by the Secretary and approved by the Council of Governors by a date six months from the date of the Governor's election or appointment then their tenure in office is to be terminated six weeks from the said date unless in the meantime they have satisfied the Chair that:

- a) the absence was due to a reasonable cause; and
- b) they will be able to attend a training session within such a period as the Chair considers reasonable.

~~7.96.10~~ **Disqualification**

~~7.9.16.10.1~~ A person may not become or continue as a Governor of the Foundation Trust if:

- a) In the case of a Patient Governor, Staff Governor or Public Governor, they cease to be a member of the Constituency they represent;
- b) in the case of a University Governor, Local Authority Governor or other Partnership Governor, the appointing organisation withdraws their appointment of them;
- c) they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;
- d) they are a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986);
- e) they have made a composition or arrangement with, or granted a trust deed for, their creditors and have not been discharged in respect of it;
- f) they have within the preceding five years been convicted in the British Islands of any offence, and a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them;
- g) they have within the preceding two years been dismissed,

otherwise than by reason of redundancy, from any paid employment with a health service body;

- h) they are a person whose tenure of office as the Chairman or as a member or Director of a Health Service body has been terminated on the grounds that their appointment is not in the interests of the Health Service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;
- i) they are an Executive or Non-Executive Director of the Foundation Trust, or a Governor, Non-Executive Director, Chair, Chief Executive Officer of another NHS Foundation Trust;
- j) they are incapable by reason of mental disorder, illness or injury of managing and administering their property and affairs.
- k) they have failed to declare an interest as required by this Constitution or Standing Orders or, have spoken or voted at a meeting on a matter in which they have an interest contrary to this Constitution or Standing Orders, and in this Paragraph interest includes a pecuniary and a non-pecuniary interest in either case whether direct or indirect.

7.9.26.10.2 Where a person has been elected or appointed to be a Governor and they become disqualified under paragraph 7.10.1 to hold that office, they shall immediately notify the Secretary in writing of such disqualification and upon giving such notice that Governor's term of office, if any, shall terminate and they shall cease to act as a Governor.

7.9.36.10.3 If it comes to the notice of the Secretary that a person elected or appointed to be a Governor may be disqualified under Paragraph 7.10.1 to hold that office and the Secretary has not received a notice under Paragraph 7.10.2 from that person, the Secretary shall make such enquiries as they think fit and, if satisfied that the person may be so disqualified, the Secretary shall give notice in writing to that person that the Foundation Trust proposes to declare the person disqualified as a Governor. In this notice, the Secretary shall specify the grounds on which it appears to them that the person is disqualified and give that person a period of at least 14 but no more than 28 days in which to make representations, orally or in writing, on the proposed disqualification. Any representations shall be to, and considered by, a committee of the Directors which in this case shall determine the proposal. If no representations are received within the specified time or the committee of Directors upholds the proposal to disqualify having heard representations, the Secretary shall immediately declare that the person in question is disqualified and

notify them in writing to that effect. On such declaration the person's tenure of office shall be terminated and they shall cease to act as a Governor.

7.106.11 Vacancies

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

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

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

- a) to call an election within three months, provided that the period of the vacancy exceeds three months; or
- b) to invite the next highest polling Candidate for that seat at the most recent election, who is willing to take office to fill the seat until the next scheduled election, at which time the seat will become vacant and subject to election.
- c) If no-one is available under 7.11.3 (b) and the vacancy is for three months or less the seat will remain vacant until the next scheduled election.

7.116.12 Duties and Responsibilities of Governors

7.11.16.12.1 The general duties of the Council of Governors are –

- a) to hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors, and
- b) to represent the interests of the members of the Foundation Trust as a whole and the interests of the public.

7.11.26.12.2 The roles and responsibilities of the Council of Governors are to:

- a) Represent the views of their respective members and organisations to the Trust, in order that the Foundation Trust may undertake its business in ways consistent with the needs of its members and the wider community, and to represent the views of the Foundation Trust to their members and organisations in a reciprocal manner.

- b) Appoint or dismiss the Chair and the other Non-Executive Directors and to decide, having regard to paragraph 7.14.2, their remuneration allowances and other Terms and Conditions of their offices. The removal of the Chair or a Non-Executive Director requires a motion in accordance with Standing Orders approved by three-quarters of the Governors.
- c) Approve (by a majority vote) the appointment (by the Non-Executive Directors) of the Chief Executive.
- d) Appoint or remove the Foundation Trust's External Auditor.
- e) Give the views of the Council of Governors to the Board of Directors for the purposes of their preparation by the Board of Directors of the document containing the information as to the Foundation Trust's forward planning in respect of each financial year to be given to NHS [England/Improvement \(NHSE/I\)](#).
- f) Respond appropriately when consulted by the Board of Directors in accordance with this Constitution.
- g) Consider and receive the Annual Accounts, any report by the External Auditor on them and the Annual Report.
- h) Receive and consider the views of the members on matters of significance to the future plans of the Foundation Trust.

~~7.11.36.12.3~~ The Foundation Trust must take steps to secure that the Governors are equipped with the skills and knowledge they require in their capacity as such.

~~7.12.6.13~~ **Declaration of Interests**

~~7.12.16.13.1~~ A Governor must declare to the Secretary:

- a) any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter concerning the Foundation Trust,
- b) any interests which are relevant and material to the business of the Foundation Trust, and
- c) any other interest as set out in the Standing Orders.
- d) any other interest as set out in the 'Conflicts of Interest Policy for Bradford Teaching Hospitals NHS Foundation Trust'.

~~7.12.26.13.2~~ Such a declaration shall be made by completing and signing a form, as prescribed by the Secretary from time to time, setting out any interests required to be declared in accordance with this Constitution or Standing Orders and delivering it to the Secretary within 28 days of a Governor's election or appointment or otherwise within 7 days of becoming aware of the existence of a relevant or material interest. ~~The Secretary shall amend the Register of Interests upon receipt of notification within 3 working days.~~ In addition, if a Governor is present at a meeting of the Council of Governors and has an interest of any sort in any matter which is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not vote on any question with respect to the matter and, if they have declared a pecuniary interest, they shall not take part in the consideration or discussion of the matter. This Paragraph applies to any Committee or Sub-Committee of the Council of Governors as it applies to the Council of Governors and applies to any member of any such Committee or Sub-Committee (whether or not they are also a Governor) as it applies to a Governor. The provisions of this Paragraph are subject to Paragraph 7.13.7.

~~7.12.36.13.3~~ "relevant and material" interests are:

- a) Directorships, including Non-Executive Directorships held in private companies or PLCs (with the exception of those of dormant companies);
- b) Ownership or part-ownership or Directorships of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
- c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
- d) A position of authority in a charity or voluntary organisation in the field of Health and Social Care;
- e) Any connection with a voluntary or other organisation contracting for or commissioning NHS services
- f) Any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Foundation Trust, including but not limited to, lenders or banks.

~~7.12.46.13.4~~ Any travelling or other expenses or allowances payable to a Governor in accordance with this Constitution shall not be treated as a pecuniary interest.

~~7.12.56.13.5~~ Subject to any other provision of this Constitution, a

Governor shall be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:

- a) they, or a nominee of theirs, is a Director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- b) they are a partner of, or are in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

~~7.12.66.13.6~~ 7.13.6 A Governor shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

- a) of their membership of a company or other body, if they have no beneficial interest in any securities of that company or other body;
- b) of an interest in any company, body or person with which they are connected as mentioned in paragraphs 7.13.2, 7.13.3 and 7.13.5 which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a Governor in the consideration or discussion of or in voting on, any question with respect to that contract or matter.

~~7.12.76.13.7~~ 7.13.7 Where a Governor:

- a) has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and
- b) the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and
- c) if the share capital is of more than one class, the total nominal value of shares of any one class in which they have a beneficial interest does not exceed one-hundredth of the total issued share capital of that class,

The Governor shall not be prohibited from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice however to ~~his~~[their](#) duty to disclose ~~his~~[their](#) interest.

~~7.12.86.13.8~~ In the case of persons living together the interest of one partner or spouse shall, if known to the other, be deemed for the purposes of this Constitution to be also an interest of the other.

~~7.12.96.13.9~~ If, during the course of a meeting of the Council of Governors, a conflict of interest is established, the Governor concerned shall withdraw from the meeting and play no part in the relevant discussion or decision. If there is a dispute as to whether a conflict of interest exists, the majority of the Governors present at the meeting shall resolve the issue, with the Chair having a casting vote.

~~7.136.14~~ **Expenses**

~~7.13.16.14.1~~ The Foundation Trust may pay travelling and other expenses to Governors at such rates as it decides. These are to be published in the Annual Report.

~~7.13.2~~ ~~The Secretary will set out general guidance on the payment of expenses to Governors and remuneration and allowances for non-executive Directors for approval by the Council of Governors.~~

~~7.13.3~~ ~~The remuneration and allowances for Non-Executive Directors set by the Governors are also to be published in the Annual Report.~~

~~7.146.15~~ **Remuneration**

~~7.14.16.15.1~~ Governors are not to receive remuneration.

~~7.156.16~~ **Meetings**

~~7.15.16.16.1~~ The Chairman of the Foundation Trust or, in their absence, the Vice Chair, appointed under paragraph 7.16.2, is to preside at meetings of the Council of Governors.

~~7.15.26.16.2~~ The Council of Governors shall appoint from the public or patient Governors a Vice Chair who shall preside at meetings of the Council of Governors in the absence of the Chair or when the Council of Governors is considering matters relating to the Non-Executive Directors or the Board of Directors. The appointment of the Vice Chair shall be by majority vote at a general meeting.

~~7.15.36.16.3~~ Meetings of the Council of Governors are to be open to members of the public except in the following circumstances:

- a) The Council of Governors may, by resolution, exclude the public from a meeting (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest or the interest of the Foundation Trust by

reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or the proceedings.

- b) Without prejudice to the generality of (a) above, the Council of Governors may treat the need to consider the following matters as of a confidential nature:
- approval of the appointment or dismissal of the Chief Executive;
 - any disciplinary or other matter arising from a contract of employment with the Foundation Trust;
 - any matter which involves the consideration of information held by the Foundation Trust in confidence, whether that confidentiality covers clinical, commercial or other information;
 - commercial matters where publication may be to the detriment of the Foundation Trust;
 - legal advice; and,
 - litigation actual or anticipated, including any arbitration or dispute resolution process or any matter of a litigious nature whether in a Court, Tribunal or Inquiry.
- c) Without prejudice to the generality of (a) above and without regard to the subject or purport of the recommendation or advice, the Council of Governors may treat as a special reason the need to receive or consider recommendations or advice from sources other than a Director, or the Board of Directors, or the Council of Governors Nominations and Remuneration Committee in accordance with paragraph 8.1.4 to 8.1.7 of this Constitution.

~~7.15.46.16.4~~ The Council of Governors will meet at least ~~4~~5 times per year [inclusive of the Annual General Meeting](#).

~~7.15.56.16.5~~ At a general meeting in September of each year or on such other date approved by the Chair, the Council of Governors are to receive and consider the Annual Accounts, any report of the Auditor on them, and the Annual Report. These documents shall be presented by at least one member of the Board of Directors. This meeting may be combined with the Annual Members Meeting as set out in paragraph 6.8.

~~7.15.66.16.6~~ The Council of Governors shall adopt its own Standing Orders for its practice and procedure.

~~7.15.76.16.7~~ The proceedings of a Meeting of the Governors shall not be invalidated by any vacancy in its membership.

~~7.15.86.16.8~~ A Governor elected to the Council of Governors by a Public Constituency, the Patients' Constituency or a Class of the Staff Constituency may not vote at a meeting of the Council unless, immediately prior to the commencement of each meeting, they have made a declaration in a form as determined by the Secretary stating which Constituency or Class they are a member of and is not prevented from being a member of the Council of Governors by paragraph 9 of Schedule 7 to the 2006 Act or under this Constitution.

~~7.15.96.16.9~~ The Council of Governors may require one or more of the Directors to attend a meeting for the purposes of obtaining information about the Foundation Trust's performance of its functions or the Directors' performance of their duties (and deciding whether to propose a vote on the Foundation Trust's or Directors' performance).

87 BOARD OF DIRECTORS

8.1 Composition of the Board of Directors

8.1.1 The Foundation Trust is to have a Board of Directors. It is to consist of Executive and Non-Executive Directors

8.1.2 The Board is to include—

(a) The following Non-Executive Directors-

- (i) a Chair
- (ii) a Non-Executive Director appointed by the Leeds Medical School, and may include a Non-Executive Director appointed by the University of Bradford, such appointments being subject to approval of the Council of Governors at a general meeting,
- (iii) at least 5 other Non-Executive Directors

(b) The following Executive Directors –

- (i) a Chief Executive (and Accounting Officer),
- (ii) a Finance Director,
- (iii) a Medical Leader, who must be a registered Medical or Dental practitioner (within the meaning of the Dentists Act 1984)
- (iv) a Chief Nurse, who must be a registered Nurse or registered Midwife
- v) a Chief Operating Officer

and may include—

- vi) a Deputy Chief Executive; where the role is either;

- combined with an Executive Director identified at (b) (ii), (iii), (iv) and (v)) or;
- combined with an Executive Director not identified at (b) (ii), (iii), (iv) and (v)) or;
- a Deputy Chief Executive appointed solely to this role.

8.1.3 Only a member of the Public or the Patients' Constituency, or an individual exercising functions for the Leeds Medical School, or the University of Bradford, is eligible for appointment as a Non-Executive Director.

8.1.4 All current Directors and future appointments must clearly satisfy and continue to meet the requirements of Regulation 5: Fit and Proper Persons: Directors of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 including all future amendments to the regulation.

8.1.5 The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the Chair of the Foundation Trust and the other Non-Executive Directors in accordance with the Governors Standing Orders.

8.1.6 Further provisions for the appointment of the Chair and the other Non-Executive Directors and the role of the Council of Governors in the said appointments are set out in the Terms of Reference of the Council of Governors Nominations and Remuneration Committee.

8.1.7 The Council of Governors will not consider nominations for membership of the Board of Directors other than the recommendations of the Council of Governors Nominations and Remuneration Committee.

8.2 Terms of office

8.2.1 The Chair and the Non-Executive Directors are to be appointed for a period of office in accordance with the Terms and Conditions of office decided by the Council of Governors at a general meeting.

8.2.2 The Chief Executive (and Accounting Officer) shall hold office for a period in accordance with the Terms and Conditions of office decided by the relevant committee of Non-Executive Directors.

8.2.3 The Executive Directors other than the Chief Executive shall hold office for a period in accordance with the Terms and Conditions decided by the relevant committee of Non-Executive Directors advised by the Chief Executive.

8.2.4 On termination of their contract of employment an Executive Director shall cease to be a member of the Board of Directors.

8.2.5 If an Executive Director is suspended from ~~his~~their contract of employment or on long term sick leave, the Non-Executive Directors in the case of the Chief Executive and the Non-Executive Directors and the Chief Executive in the case of the other Executive Directors may appoint another person as an Executive Director in an acting capacity in their place.

8.3 Disqualification

8.3.1 A person may not be a Director of the Foundation Trust if–

- (a) they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;
- (b) they are a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986)
- (c) they have made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it;
- (d) they have within the preceding five years been convicted in the British Islands of any offence, and a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them;
- (e) they are a person whose tenure of office as a Chair or as a member or Director of a health service body has been terminated on the grounds that their appointment is not in the interests of public service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;
- (f) they have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
- (g) in the case of a Non-Executive Director, they no longer satisfy paragraph 8.1.3;
- (h) they have failed to declare an interest as required by this Constitution or Standing Orders or, any other interest as set out in the 'Conflicts of Interest Policy for Bradford Teaching Hospitals NHS Foundation Trust'.

- (i) have spoken or voted at a meeting on a matter in which they have an interest contrary to this Constitution or Standing Orders, and in this Paragraph interest includes a pecuniary and a non-pecuniary interest in either case whether direct or indirect.

8.4 Duties, Roles and Responsibilities

The general duty of the Board of Directors and of each Director individually, is to act with a view to promoting the success of the Foundation Trust so as to maximise the benefits for the members of the Foundation Trust as a whole and for the public.

- 8.4.1 The powers of the Foundation Trust are to be exercisable by the Board of Directors on its behalf.
- 8.4.2 Any of those powers may be delegated to a Committee of Directors or to an Executive Director.
- 8.4.3 A Committee of Non-Executive Directors established as an Audit Committee is to monitor, review and carry out such other functions in relation to the External Auditor as appropriate.
- 8.4.4 It is for the Non-Executive Directors to appoint (subject to the approval of the Council of Governors) or remove the Chief Executive.
- 8.4.5 It is for a Committee of the Chair, Chief Executive and the other Non-Executive Directors to appoint or remove the Executive Directors.
- 8.4.6 The process for removal of the Executive Directors will be for the Chief Executive to make such a recommendation to the Board of Directors in writing setting out the case for removal and for the Board to dispose of the recommendation by way of a resolution in accordance with Standing Orders.
- 8.4.7 The Foundation Trust is to establish a Committee of all Non-Executive Directors to decide the remuneration and allowances, and the other Terms and Conditions of office, of the Chief Executive.
- 8.4.8 The Foundation Trust is to establish a Committee of Non-Executive Directors advised by the Chief Executive to decide the remuneration and allowances, and the other Terms and Conditions of office, of the Executive Directors.
- 8.4.9 The Directors, having regard to the views of the Council of Governors, are to prepare the information as to the Foundation Trust's forward planning in respect of each financial year to be

given to ~~NHS Improvement~~[NHSE/I](#).

8.4.10 The Directors are to present to the Council of Governors at a general meeting the Annual Accounts, any report of the External Auditor on them, and the Annual Report.

8.4.11 The functions of the Foundation Trust under subparagraphs (a) and (b) of paragraph 14.6 below are delegated to the Chief Executive as Accounting Officer.

9 MEETINGS OF THE BOARD OF DIRECTORS

9.1 The Board of Directors, in consultation with the Council of Governors, is to adopt Standing Orders covering the proceedings and business of its meetings and such other matters relating to the conduct of the Foundation Trust's business and functions as it considers appropriate. These are to include setting a quorum for meetings, both of Executive and Non-Executive Directors. The proceedings of the Board of Directors shall not however be invalidated by any vacancy of its membership, or defect in a Director's appointment.

9.2 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.

a) The Board of Directors may, by resolution, exclude the public from a meeting (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest or the interest of the Foundation Trust by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or the proceedings.

b) Without prejudice to the generality of (a) above, the Board of Directors may treat the need to consider the following matters as of a confidential nature:

- approval of the appointment or dismissal of the Chief Executive;
- any disciplinary or other matter arising from a contract of employment with the Foundation Trust;
- any matter which involves the consideration of information held by the Foundation Trust in confidence, whether that confidentiality covers clinical, commercial or other information;
- commercial matters where publication may be to the detriment of the Foundation Trust;
- legal advice; and,
- litigation actual or anticipated, including any arbitration or dispute resolution process or any matter of a litigious nature

whether in a Court, Tribunal or Inquiry.

- 9.3 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

10. CONFLICTS OF INTERESTS DIRECTORS

- 10.1 The duties that a Director of the Foundation Trust has by virtue of being a Director include in particular:

10.1.1 A duty to avoid a situation in which the Director has (or can have) a direct or indirect interest that conflicts (or possibly may conflict) with the interests of the Foundation Trust.

10.1.2 A duty not to accept a benefit from a third party by reason of being a Director or doing (or not doing) anything in that capacity.

- 10.2 The duty referred to in sub-paragraph 10.1.1 is not infringed if:

10.2.1 The situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

10.2.2 The matter has been authorisszed in accordance with the Constitution.

- 10.3 The duty referred to in sub-paragraph 10.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

- 10.4 In sub-paragraph 10.1.2, “third party” means a person other than:

10.4.1 The Foundation Trust, or

10.4.2 A person acting on its behalf.

- 10.5 If a Director of the Foundation Trust has in any way a direct or indirect interest in a proposed transaction or arrangement with the Foundation Trust, the Director must declare the nature and extent of that interest to the other Directors.

- 10.6 If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

- 10.7 Any declaration required by this paragraph must be made before the Foundation Trust enters into the transaction or arrangement.

- 10.8 This paragraph does not require a declaration of an interest of which the Director is not aware or where the Director is not aware of the transaction

or arrangement in question.

10.9 A Director need not declare an interest:

10.9.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest;

10.9.2 if, or to the extent that, the Directors are already aware of it;

10.9.3 if, or to the extent that, it concerns terms of the Director's appointment that have been or are to be considered –

10.9.3.1 By a meeting of the Board of Directors, or

10.9.3.2 By a Committee of the Directors appointed for the purpose under the Constitution.

10.10 If, during the course of a meeting of the Board of Directors, a conflict of interest is established, the Director concerned shall withdraw from the meeting and play no part in the relevant discussion or decision. If there is a dispute as to whether a conflict of interest exists, the majority of the Directors present at the meeting shall resolve the issue, with the Chair having a casting vote.

11 REGISTERS

11.1 The Foundation Trust shall have:

- (a) a register of Members showing, in respect of each Member, the Constituency or class to which they belong;
- (b) a Register of Members of the Council of Governors;
- (c) a Register of interests of Governors
- (d) a Register of Directors;
- (e) a Register of interests of Directors.

11.2 The Secretary shall be responsible for compiling and maintaining the Registers. Removal from any Register shall be in accordance with the provisions of this Constitution.

a) Register of Members

Members must complete and sign an application in the form prescribed by the Secretary.

b) Register of Governors

The Register shall list the names of Governors, their category of membership of the Council (Public, Staff or organisation represented) and an address through which they may be contacted which may be that of the Secretary.

c) Register of Interests of the Governors.

The Register shall contain the names of each Governor, whether they have declared any interests and, if so, the interests declared in accordance with this Constitution or Standing Orders.

d) Register of Directors

The Register shall list the names of Directors, their capacity on the Board and an address through which they may be contacted which may be the address of the Secretary.

e) Register of interests of Directors

The Register shall contain the names of each Director, whether they have declared any interests and, if so, the interests declared in accordance with this Constitution or Standing Orders.

12 PUBLIC DOCUMENTS

12.1 The following documents of the Foundation Trust are to be available at the Foundation Trust's Headquarters for inspection by members of the public free of charge at all reasonable times:

- a) a copy of the current Constitution;
- b) a copy of the latest Annual Accounts and of any report of the Auditor on them;
- c) a copy of the latest Annual Report;

12.2 The Foundation Trust shall also make the following documents relating to a special administration of the Foundation Trust available for inspection by members of the public free of charge at all reasonable times:

- a) a copy of any order made under section 65D (appointment of Foundation Trust Special Administrator), 65J (power to extend time), 65KC (action following Secretary of State's rejection of final report), 65L(Foundation Trusts coming out of administration) or 65LA (Foundation Trusts to be dissolved) of the 2006 Act.
- b) a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act.

- c) a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act.
 - d) a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act.
 - e) a copy of any statement provided under section 65F(administrator's draft report) of the 2006 Act.
 - f) a copy of any notice published under section 65F(administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA([MonitorNHSE/I's decision](#)), 65KB (Secretary of State's response to Monitor's decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act.
 - g) a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act.
 - h) a copy of any final report published under section 65I (administrator's final report),
 - i) a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act.
 - j) a copy of any information published under section 65M (replacement of trust special administrator) of the 2006 Act.
- 12.3 Any person who requests it is to be provided with a copy or extract from any of the above documents.
- 12.4 The Registers mentioned in the paragraph 11.1 above are also available for inspection by members of the public, except in circumstances prescribed by regulations made under the 2006 Act; and insofar as those Registers are required to be available:
- a) they are to be provided free of charge at all reasonable times
 - b) a person who requests it is to be provided with a copy of or extract from them
- 12.5 If the person requesting a copy or extract is not a Member of the Foundation Trust, the Foundation Trust may impose a reasonable charge for providing the copy or extract.

13 EXTERNAL AUDITOR

- 13.1 The Foundation Trust is to have an External Auditor and is to provide the External Auditor with every facility and all information which they may reasonably require for the purposes of [his/her](#) functions under Chapter 5 of Part 2 of the 2006 Act.
- 13.2 A person may only be appointed as the External Auditor if they (or in the case of a firm each of its members) are a member of one or more of the bodies referred to in paragraph 23(4) of Schedule 7 to the 2006 Act.
- 13.3 Appointment of the External Auditor by the Council of Governors is covered in paragraph 7.13.2, and monitoring of the External Auditor's functions by a Committee of Non-Executive Directors is covered in paragraph 8.4.3.
- 13.4 The External Auditor is to carry out their duties in accordance with Schedule 10 to the 2006 Act and comply with any directions from [Monitor/NHSE/I](#) on standards, procedures and techniques.

14 ACCOUNTS

- 14.1 The Foundation Trust must keep proper Accounts and proper records in relation to the Accounts.
- 14.2 The Foundation Trust is to keep Accounts in such form as [Monitor/NHSE/I](#) may with the approval of the Secretary of State direct.
- 14.3 The Accounts are to be audited by the Foundation Trust's External Auditor.
- 14.4 The following documents will be made available to the Comptroller and Auditor General for examination at [his/her](#) request–
- (a) The Accounts;
 - (b) any records relating to them; and
 - (c) any report of the External Auditor on them.
- 14.5 The Foundation Trust is to prepare in respect of each financial year Annual accounts in such form as [Monitor/NHSE/I](#) -may with the approval of the Secretary of State direct.
- 14.6 In preparing its Annual Accounts, the Foundation Trust is to comply with any directions given by [NHSE/I/Monitor](#) with the approval of the Secretary of State as to –
- (a) the methods and principles according to which the Accounts are to be prepared;
 - (b) The information to be given in the Accounts

14.7 The Foundation Trust must –

- (a) lay a copy of the Annual Accounts, and any report of the External Auditor on them, before Parliament; and
- (b) once it has done so, send copies of those documents to [NHSE/IMonitor](#).

14.8 The functions of the Foundation Trust with respect to the preparation of the Annual Accounts shall be delegated to the Accounting Officer

15 ANNUAL REPORTS, FORWARD PLANS AND NON-NHS WORK

15.1 The Foundation Trust is to prepare Annual Reports and send them to [NHSE/IMonitor](#).

15.2 The Reports are to give:

- a) information on any steps taken by the Foundation Trust to secure that (taken as a whole) the actual Membership of its Public Constituency is representative of those eligible for such membership; and
- b) information on any occasion in the period to which the report relates on which the Council of Governors exercised its power under paragraph 7.16.9;
- c) information on the Foundation Trust's policy on pay and on the work of the Committee established under paragraph 8.4.7 and such other procedures as the Foundation Trust has on pay;
- d) information on the remuneration of the Directors and on the expenses of the Governors and the Directors; and
- e) any other information [NHSE/IMonitor](#) requires.

15.3 The Foundation Trust is to comply with any decision [NHSE/IMonitor](#) makes as to –

- a) the form of the Reports;
- b) when the Reports are to be sent to it;
- c) the periods to which the Reports are to relate.

15.4 The Foundation Trust is to give information as to its Forward Planning in respect of each financial year to [NHSE/IMonitor](#). This information is to be prepared by the Board of Directors, having regard to the views of the Council of Governors.

- 15.5 Each Forward Plan must contain information about-
- 15.5.1 the activities other than the provision of goods and services for the provision of the health service in England that the Foundation Trust proposes to carry on, and
 - 15.5.2 the income it expects to receive from doing so
- 15.6 Where a Forward Plan contains a proposal that the Foundation Trust carry on an activity of the kind mentioned in sub-paragraph 15.5.1 the Council of Governors must –
- 15.6.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the Foundation Trust of its principal purpose or the performance of its functions, and
 - 15.6.2 notify the Directors of the Foundation Trust of its determination.
- 15.7 If the Foundation Trust proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the Health Service in England, it may implement the proposal only if more than half of the Members of the Council of Governors of the Foundation Trust voting approve its implementation.

16 INDEMNITY

Governors and Directors who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their Foundation Trust functions, save where they have acted recklessly. Any costs arising in this way will be met by the Foundation Trust.

17 INSTRUMENTS

- 17.1 A document purporting to be duly executed under the Foundation Trust's seal or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.
- 17.2 The Foundation Trust has a seal, but this is not to be affixed except in accordance with Standing Orders (adopted under Paragraph 9.1 of this Constitution).

18 DISPUTE RESOLUTIONS PROCEDURES

- 18.1 The Foundation Trust will establish appropriate dispute resolution procedures with its contractors and Members.

- 18.2 In the case of a dispute between the Board of Directors and the Council of Governors both parties shall first use their best endeavours to resolve the dispute through a joint meeting of the [Council and the Boards](#). Should such a joint meeting fail to resolve the dispute the parties shall seek mediation through the appointment of mutually agreed mediators, who shall not be members of the Foundation Trust. Should such mediation fail the dispute will be determined through reference to arbitration under the terms of the Arbitration Act 1996.

19 AMENDMENT OF THE CONSTITUTION

- 19.1 The Foundation Trust may make amendments of its Constitution only if –
- 19.1.1 More than half of the members of the Council of Governors of the Foundation Trust voting approve the amendments, and
 - 19.1.2 More than half of the members of the Board of Directors of the Foundation Trust voting approve the amendments.
- 19.2 Amendments made under paragraph 19.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the Constitution would, as a result of the amendment, not accord with schedule 7 of the 2006 Act.
- 19.3 Where an amendment is made to the Constitution in relation the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust) –
- 19.3.1 at least one member of the Council of Governors must attend the next Annual Members Meeting and present the amendment, and
 - 19.3.2 the Foundation Trust must give the members an opportunity to vote on whether they approve the amendment.
- 19.4 If more than half of the members voting under paragraph 19.3.2 approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the Foundation Trust must take such steps as are necessary as a result.
- 19.5 Amendments by the Foundation Trust of its Constitution are to be notified to [NHSE/IMonitor](#). For the avoidance of doubt, ~~Monitor's~~ [NHSE/I's](#) functions do not include a power or duty to determine whether or not the Constitution, as a result of the amendments, accords with Schedule 7 of the 2006 Act.

20. MERGERS ETC. AND SIGNIFICANT TRANSACTIONS

- 20.1 The Foundation Trust may only apply for a merger, acquisition, separation or dissolution with the approval of more than half of the members of the Council of Governors.

- 20.2 The Foundation Trust may enter into a Significant Transaction only if more than half of the members of the Council of Governors voting approve entering into the transaction.
- 20.3 “Significant Transaction” means:
- 20.3.1 the acquisition of, or an agreement to acquire, assets the value of which is more than 25% of the value of the Foundation Trust's gross assets before the acquisition; or
 - 20.3.2 the disposal of, or an agreement to dispose of, assets of the Foundation Trust the value of which is more than 25% of the value of the Foundation Trust's gross assets before the disposal; or
 - 20.3.3 a transaction that has or is likely to have the effect of the Foundation Trust acquiring rights or interests or incurring obligations or liabilities, the value of which is more than 25% of the value of the Foundation Trust's gross assets before the transaction.
- 20.4 For the purpose of this paragraph "gross assets" means the total of the Foundation Trust's fixed assets and current assets
- 20.5 Where the Foundation Trust has a single requirement for goods, services or works, and a number of transactions are to be entered into to fulfil that requirement, the value of the transaction for the purpose of paragraph 20.3 is the aggregate of the value of each of those transactions.

ANNEX 1: PUBLIC CONSTITUENCIES OF THE FOUNDATION TRUST

Name of Constituency	Area	Minimum number of members	Number of Governors
Keighley	Craven, Ilkley, Keighley Central, Keighley East, Keighley West, Worth Valley	100	2
Shipley	Baildon, Bingley, Bingley Rural, Shipley, Wharfedale, Windhill and Wrose	100	2
Bradford East	Bolton and Undercliffe, Bowling and Barkerend, Bradford Moor, Eccleshill, Idle and Thackley Little Horton,	100	2
Bradford South	Great Horton, Queensbury, Royds, Tong, Wibsey, Wyke	100	2
Bradford West	City, Clayton and Fairweather, Heaton, Manningham, Thornton and Allerton, Toller	100	2
Rest of England and Wales	Remaining electoral wards that do not form part the BMDC area	100	1

Area means the electoral wards as listed.