

Standing Financial Instructions

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Standing Financial Instructions

Contents

1. INTRODUCTION	5
1.1 General	5
1.2 Responsibilities and Delegation	6
2. AUDIT	8
2.1 Audit Committee.....	8
2.2 Director of Finance & Business Intelligence	8
2.3 Role of Internal Audit.....	9
2.4 External Audit.....	10
2.5 Fraud and Corruption	10
2.6 Security Management	10
3. BUSINESS PLANNING, BUDGETS, BUDGETARY CONTROL, AND MONITORING	11
3.1 Preparation and Approval of Plans and Budgets.....	11
3.2 Budgetary Delegation.....	12
3.3 Budgetary Control and Reporting.....	12
3.4 Capital Expenditure	13
3.5 Monitoring Returns	13
4. ANNUAL ACCOUNTS AND REPORT	13
5. Government Bank Service (GBS) Accounts	14
5.1 General	14
5.2 GBS Accounts	14
5.3 Banking Procedures	15
5.4 Tendering and Review	15
6. INCOME, FEES AND CHARGES AND SECURITY OF CASH, CHEQUES AND OTHER NEGOTIABLE INSTRUMENTS	16
6.1 Income Systems.....	16
6.2 Fees and Charges.....	16
6.3 Debt Recovery	16
6.4 Security of Cash, Cheques and Other Negotiable Instruments	17
7. TENDERING AND CONTRACTING PROCEDURE	17
7.1 Duty to Comply with Standing Orders and Standing Financial Instructions. 17	
7.2 Legislation Governing Public Procurement	18
7.3 Guidance on Procurement and Commissioning	18
7.4 Decision to Tender and Exceptions to Requirement to Tender	19
7.5 Tendering Procedure	22
7.6 Quotations: Competitive and Non-Competitive	26
7.7 Evaluation of Tenders and Quotations	27
7.8 Award of Contracts.....	28
7.9 Form of Contract	29
7.10 Specific Requirements	30
7.11 Cancellation of contracts.....	31
8. CONTRACTS FOR PROVISION OF SERVICES	32
8.1 Contracts.....	32
8.2 Involving Partners and Jointly Managing Risk.....	32
8.3 Reports to Board on Contracts.....	32
9. TERMS OF SERVICE, ALLOWANCES AND PAYMENT OF MEMBERS OF THE	

TRUST BOARD AND EXECUTIVE COMMITTEE AND EMPLOYEES.....	33
9.1 Remuneration and Terms of Service (see overlap with SO No. 4).....	33
9.2 Funded Establishment	34
9.3 Staff Appointments.....	34
9.4 Processing Payroll	34
9.5 Contracts of Employment.....	35
10. NON-PAY EXPENDITURE.....	36
10.1 Delegation of Authority.....	36
10.2 Choice, Requisitioning, Ordering, Receipt and Payment for Goods and Services (see overlap with Standing Financial Instruction No. 16)	36
11. EXTERNAL BORROWING.....	39
11.1 External Borrowing.....	39
11.2 Investments	40
12. FINANCIAL GUIDANCE.....	40
13. Capital Investment.....	40
13.2 Private Finance (see overlap with SFI No. 7.10.3).....	41
13.3 Asset Registers.....	41
13.4 Security of Assets	42
14. STORES AND RECEIPT OF GOODS General Position	43
14.2 Control of Stores, Stocktaking, Condemnations and Disposal.....	43
14.3 Goods Supplied by NHS Logistics	44
15. DISPOSALS AND CONDEMNATIONS, LOSSES AND SPECIAL PAYMENTS 44	
15.1 Disposals and Condemnations	44
15.2 Losses and Special Payments.....	45
16. INFORMATION TECHNOLOGY	45
16.1 Responsibilities and Duties of the Nominated Director with Responsibility for Information Technology	45
16.2 Responsibilities and Duties of Other Directors and Officers in Relation to Computer Systems of a General Application	46
16.3 Contracts for Computer Services with Other Health Bodies or Outside Agencies.....	47
16.4 Risk Assessment	47
16.5 Requirements for Computer Systems which have an Impact on Corporate Financial Systems.....	47
17. PATIENTS' PROPERTY	47
18. FUNDS HELD ON TRUST	48
18.1 Corporate Trustee.....	48
18.2 Accountability to Charity Commission and Secretary of State for Health.	49
18.3 Applicability of Standing Financial Instructions to Funds held on Trust....	49
19. ACCEPTANCE OF GIFTS BY STAFF AND LINK TO STANDARDS OF BUSINESS CONDUCT (see overlap with SO No. 6 and SFI No. 10.2.6 (d)).....	49
20. RETENTION OF RECORDS.....	49
21. RISK MANAGEMENT AND INSURANCE.....	50
21.1 Programme of Risk Management	50
21.2 Insurance Arrangements with Commercial Insurers	50
Annex 1 - Financial Limits	52
Annex 2 - Monitoring Template	55

Standing Financial Instructions

1. INTRODUCTION

1.1 General

- 1.1.1 These Standing Financial Instructions (SFIs) are issued by the LINCOLNSHIRE COMMUNITY HEALTH SERVICES NHS TRUST (the “Trust”) for the regulation of the conduct of its members and officers in relation to all financial matters with which they are concerned. They shall have effect as if incorporated in the Standing Orders (SOs).
- 1.1.2 These Standing Financial Instructions detail the financial responsibilities, policies and procedures adopted by the Trust. They are designed to ensure that the Trust’s financial transactions are carried out in accordance with the law, relevant NHS regulatory frameworks and with any relevant Government policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the Schedule of Decisions Reserved to the Board and the Scheme of Delegation adopted by the Trust. All Directors and Officers should be aware of these documents and, where necessary, be familiar with the detailed provisions contained within.
- 1.1.3 These SFIs identify the financial responsibilities which apply to everyone working for the 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 policies and financial procedure notes. All financial procedures and procedures must be approved by the Director of Finance & Business Intelligence.
- 1.1.4 Should any difficulties arise regarding the interpretation or application of any of the SFIs then the advice of the Director of Finance & Business Intelligence **must be sought before acting**. The user of these Standing Financial Instructions should also be familiar with and comply with the provisions of the Trust’s Standing Orders (SOs) and Scheme of Delegations (SoD)..
- 1.1.5 **The failure to comply with SFIs and SOs can in certain circumstances be regarded as a disciplinary matter that could result in dismissal.**
- 1.1.6 **Overriding Standing Financial Instructions** – If for any reason these SFIs are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the noncompliance shall be reported to the next formal meeting of the Audit Committee for referring action or ratification. All members of the Board and staff have a duty to disclose any non-compliance with these SFIs to the Director of Finance and Business Intelligence as soon as possible.

Interpretation and Definitions

Save as otherwise permitted by law, at any meeting of the Trust Board, the Chair shall be the final authority on the interpretation of the SFIs (on which the Chair should be advised by the Chief Executive or Director of Finance & Business Intelligence and the Chair’s decision shall be final and binding except in the case of manifest error.

Wherever a financial limit is stipulated but no value given, reference should be made to the Trust's Financial Limits contained within the Scheme of Delegation, which shall be issued to accompany the SOs and the SFIs. The Trust Board should periodically review the Financial Limits.

1.2 Responsibilities and Delegation

1.2.1 The Trust Board

The Trust 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); and
- (d) defining specific responsibilities placed on members of 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 Matters Reserved to the Board document. All other powers have been delegated to such other committees as the Trust has established.

1.2.3 The Trust Board will delegate responsibility for the performance of its functions in accordance with the Scheme of Delegation adopted by the Trust. The extent of delegation should be kept under review by the Trust Board.

1.2.3 The Chief Executive and Director of Finance & Business Intelligence

The Chief Executive and Director of Finance & Business Intelligence will, as far as possible, delegate their detailed responsibilities, but they remain accountable for financial control.

Within the SFIs, it is acknowledged that the Chief Executive is ultimately accountable to the Board, and as Accountable Officer, to the Secretary of State, 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 Trust's activities; is responsible to the Chair and the Board for ensuring that its financial obligations and targets are met and has overall responsibility for the Trust's system of internal control.

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

1.2.5 The Director of Finance & Business Intelligence

The Director of Finance & Business Intelligence is responsible for:

- (a) implementing the Trust's financial policies and for coordinating 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 Trust's transactions, in order to disclose, with reasonable accuracy, the financial position of the Trust at any time;
- (d) ensuring that systematic audits are carried out and appropriate audit records are maintained.

and, without prejudice to any other functions of the Trust, and employees of the Trust, the duties of the Director of Finance & Business Intelligence include:

- (e) the provision of financial advice to other members of the Board and employees;
- (f) the design, implementation and supervision of systems of internal financial control and the documentation of such systems in detailed financial procedures notes: and;
- (f) the preparation and maintenance of such accounts, certificates, estimates, records and reports as the Trust may require for the purpose of carrying out its statutory duties.

1.2.6 Board Members and Employees

All members of the Board and employees, severally and collectively, are responsible for:

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

1.2.7 Contractors and their Employees

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

- 1.2.8 For all members of the Board and any employees who carry out a financial function, the form in which financial records are kept and the manner in which members of the Board and employees discharge their duties must be to the satisfaction of the Director of Finance & Business Intelligence.

2. AUDIT

2.1 Audit Committee

- 2.1.1 In accordance with Standing Orders, the Board shall formally establish an Audit Committee of Non-Executive Directors, with clearly defined terms of reference and following guidance from the NHS Audit Committee Handbook (2018), which will provide an independent and objective view of internal control . The terms of reference of the Audit Committee will be reviewed annually by the Committee, taking into account best practice recommendations, and approve by the Trust Board.
- 2.1.2 Where the Audit Committee considers there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters that the Committee wishes to raise, the Chair of the Audit Committee should raise the matter at a full meeting of the Board. Exceptionally, the matter may need to be referred to NHS Improvement. (via the Director of Finance & Business Intelligence in the first instance.)
- 2.1.3 It is the responsibility of the Director of Finance & Business Intelligence to ensure an adequate Internal Audit service is provided and the Audit Committee shall be involved in the selection process with due regard to the Bribery Act 2010, when/if an Internal Audit service provider is changed.
- 2.1.4 Where the Audit Committee considers there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters it wishes to raise, the Chair of the Audit Committee should raise the matter at a full meeting of the Trust Board. Exceptionally, the matter may need to be referred to the regulatory bodies via the Director of Finance and Business Intelligence in the first instance.
- 2.1.5 The Audit Committee will review the annual financial statements prior to submission to the Trust Board, focusing on changes to, and compliance with, accounting policies and practices, significant adjustments resulting from the independent external audit and any material misstatements in the financial statements.
- 2.1.6 The Committee will review the wording of the Annual Governance Statement and assess the Trust's resources to confirm it can reasonably be expected to continue operating as a going concern for the foreseeable future.

2.2 Director of Finance & Business Intelligence

- 2.2.1 The Director of Finance & Business Intelligence 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 and to recover loss caused by theft or damage to the estate;
- (d) ensuring that an annual internal audit report is prepared for the consideration of the Audit Committee [and the Board]. The report must cover:
 - (i) a clear opinion on the effectiveness of internal control in accordance with current assurance framework guidance issued by the Department of Health including for example compliance with control criteria and standards;
 - (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.

2.2.2 The Director of Finance and Business Intelligence or 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 members of the Board or employee of the Trust;
- (c) the production of any cash, stores or other property of the Trust under a member of the Board and an employee's control; and
- (d) explanations concerning any matter under investigation.

2.3 Role of Internal Audit

2.3.1 Internal Audit will review, appraise and report upon:

- (a) the extent of compliance with, and the financial effect of, relevant established policies, plans and procedures;
- (b) the adequacy and application of financial and other related management controls;
- (c) the suitability of financial and other related management data;
- (d) the extent to which the Trust's assets and interests are accounted for and safeguarded from loss of any kind, arising from:
 - (i) fraud and other offences;
 - (ii) waste, extravagance, inefficient administration;
 - (iii) poor value for money or other causes.

2.3.2 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 & Business

Intelligence must be notified immediately.

- 2.3.3 The Head of Internal Audit will normally attend Audit Committee meetings and has a right of access to all Audit Committee members, the Chair and Chief Executive of the Trust.
- 2.3.4 The Head of Internal Audit shall be accountable to the Director of Finance & Business Intelligence. The reporting system for internal audit shall be agreed between the Director of Finance & Business Intelligence, the Audit 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.
- 2.3.5 There should be an annual review of the internal audit services which are paid for by the Trust. In line with tendering and assuring best value, the Trust will market test its Internal Audit provision in line with SFI ref 5.4.2.

2.4 External Audit

- 2.4.1 The Trust shall procure its External Auditor, from time to time, in accordance with the requirements of the Local Audit Accountability Act 2014 and the Guidance on the Local Procurement of External Auditors for NHS Trusts and CCGs (Department of Health, March 2016) or any later version of such guidance. The Board shall be responsible for making the appointment.
- 2.4.2 The Trust Board will establish an Audit Panel; distinct from the Audit Committee. The Audit Panel must ensure a cost-efficient service. If there are any problems relating to the service provided by the External Auditor, then this should be raised with the External Auditor in the first instance.

2.5 Fraud and Corruption

- 2.5.1 In line with their responsibilities, the Trust Chief Executive and Director of Finance & Business Intelligence shall monitor and ensure compliance with all aspects of the Health and Social Care Act 2012 which relate to fraud and corruption.
- 2.5.2 The Trust shall nominate a suitable person to carry out the duties of the Local Counter Fraud Specialist as specified by the Department of Health Anti-Fraud Manual and guidance.
- 2.5.3 The Local Counter Fraud Specialist shall report to the Trust Director of Finance & Business Intelligence and shall work with staff in NHS Counter Fraud Authority in accordance with the Department of Health Anti-Fraud Manual.
- 2.5.4 The Local Counter Fraud Specialist will provide a written report, at least annually, on counter fraud work within the Trust. In line with tendering and assuring best value, the Trust will market test its Counter Fraud provision in line with SFI ref 5.4.2.

2.6 Security Management

- 2.6.1 In line with their responsibilities, the 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 Trust shall nominate a suitable person to carry out the duties of the Local Security Management Specialist (LSMS) as specified by the Secretary of State for Health guidance on NHS security management.
- 2.6.3 The Trust shall nominate a Non-Executive Director to be responsible to the Board for NHS security management.
- 2.6.4 The Chief Executive has overall responsibility for controlling and coordinating security. However, key tasks are delegated to the Director of Workforce and Transformation and the appointed Local Security Management Specialist (LSMS).

3. BUSINESS PLANNING, BUDGETS, BUDGETARY CONTROL, AND MONITORING

3.1 Preparation and Approval of Plans and Budgets

- 3.1.1 The Chief Executive, in conjunction with the Director of Finance & Business Intelligence, will compile and submit to the Board annually, an LCHS Operational Plan which takes into account financial targets and forecast limits of available resources. The Operational 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 & Business Intelligence will, using the Budget Setting Policy, 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 Operational 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.
- 3.1.3 The Director of Finance & Business Intelligence shall monitor financial performance against budget and 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 & Business Intelligence 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 & Business Intelligence has a responsibility to ensure that

adequate training is delivered on an on-going basis to budget holders to help them manage their delegated budget successfully.

3.2 Budgetary Delegation

- 3.2.1 The Chief Executive may within budgetary limits approved by the Trust Board, 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 (as defined by the expense code);
 - (c) individual and group responsibilities;
 - (d) authority to exercise virements;
 - (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 & Business Intelligence.
- 3.2.5 Budgets shall be delegated as far as possible to the lowest level consistent with effective operational management.

3.3 Budgetary Control and Reporting

- 3.3.1 The Director of Finance & Business Intelligence will devise and maintain a system of budgetary control. These will include:
- (a) Monthly financial reports to the Board in a form approved by the Board containing:
 - (i) income and expenditure to the month and forecast year-end position;
 - (ii) movements in working capital;
 - (iii) movements in cash and capital;
 - (iv) capital project spend and projected outturn against plan;
 - (v) explanations of any material variances from plan;
 - (vi) performance against the regulatory framework assurance metrics;
 - (vii) details of any corrective action where necessary and the Chief Executive's and/or Director of Finance & Business Intelligence's view of 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; and
- (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 mitigated as far as practicable and escalated through financial reporting;
- (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 other than those provided for within 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 Operational Plan and any strategic plans.

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 24).

3.5 Monitoring Returns

3.5.1 The Chief Executive is responsible for ensuring that the appropriate monitoring forms are submitted to the requisite monitoring organisation.

3.5.2 The Director of Finance & Business Intelligence will ensure that an adequate system of financial reporting and monitoring is in place to meet the requirements of the regulatory financial framework. The Trust will report to the regulator on the basis required by the financial regulatory framework in place.

4. ANNUAL ACCOUNTS AND REPORT

4.1 The Director of Finance & Business Intelligence on behalf of the Trust will:

- (a) prepare financial returns in accordance with the accounting policies and guidance given by the Department of Health & Social Care and HM Treasury, the Trust's accounting policies, and generally accepted accounting practice;
- (b) prepare and submit annual financial reports to the Department of Health & Social Care certified in accordance with current guidelines;

- (c) submit financial returns to the Department of Health & Social Care for each financial year in accordance with the timetable prescribed by the Department of Health & Social Care.
- 4.2 The Trust's annual accounts must be audited by the auditor appointed by the Trust in accordance with SFI 11.4.1. The Trust's audited annual accounts must be presented to a public meeting and made available to the public.
- 4.3 The Trust will publish an annual report, in accordance with guidelines on local accountability, and present it at a public meeting. The document will comply with the Department of Health & Social Care Group Accounting Manual for the year of preparation.

5. Government Bank Service (GBS) Accounts

5.1 General

- 5.1.1 The Director of Finance & Business Intelligence is responsible for managing the Trust's banking arrangements and for advising the Trust on the provision of banking services and operation of accounts. This advice will take into account guidance/directions issued from time to time by the Department of Health and Social Care. NHS Trusts have been mandated to utilise Government Banking Service (GBS) accounts for all banking services.
- 5.1.2 The Board shall approve the banking arrangements and review at least bi-annually (or more frequently if necessary) through the review of the Trust's Treasury Management Policy.
- 5.1.3 No Officer other than Director of Finance & Business Intelligence may authorise the opening or holding a bank account in the name of the Trust or any of its constituent departments/services locations. Any Officer aware of the existence of such an account shall report the matter to the Director of Finance & Business Intelligence.
- 5.1.4 Where an officer holds funds or has an interest in a bank account that may or may not be held on trust and these funds are intended for use on health or health related expenditure, the Officer should declare this annually as a financial interest under the Standards of Business Conduct for NHS Staff.

5.2 GBS Accounts

- 5.2.1 The Director of Finance & Business Intelligence is responsible for:
 - (a) the operation of Government Banking Service (GBS) accounts;
 - (b) establishing separate bank accounts for the Trust's non-exchequer funds;
 - (c) ensuring payments made from bank or 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 Trust's bankers for accounts to be overdrawn (together with remedial action to be taken).

- (e) monitoring compliance with DH&SC and/or regulatory guidance on the level of cleared funds.

5.3 Banking Procedures

- 5.3.1 The Director of Finance & Business Intelligence 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) those authorised to sign cheques or other payment forms drawn on the Trust's accounts and the number of signatures required on each authority to pay.
 - (c) the limits to be applied to any overdraft or investment
 - (d) those authorised to invest monies or open new accounts for investment: and
 - (e) any records which must be maintained in respect of the above
- 5.3.2 The Director of Finance & Business Intelligence must advise the Trust's bankers in writing of the conditions under which each account will be operated.
- 5.3.3 Where an agreement is entered into with any other body for payment to be made on behalf of the Trust from bank accounts maintained in the name of the Trust or other body, or by Electronic Funds Transfer (BACS), the Director of Finance & Business Intelligence shall ensure that satisfactory security regulations of the Trust/other body relating to bank accounts exist and are observed. This will be specified in an agreement with the appropriate body.

5.4 Tendering and Review

- 5.4.1 The Director of Finance will review any commercial banking arrangements of the Trust at regular intervals to ensure they reflect best practice and represent best value for money by periodically seeking competitive tenders for the Trust's commercial banking business or banking related services.
- 5.4.2 Competitive tenders should be sought at least every three years unless the Board of Directors determine otherwise. The results of the tendering exercise should be reported to the Trust Board. This review is not necessary for GBS accounts required by the Department of Health.

6. INCOME, FEES AND CHARGES AND SECURITY OF CASH, CHEQUES AND OTHER NEGOTIABLE INSTRUMENTS

6.1 Income Systems

- 6.1.1 The Director of Finance & Business Intelligence 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 & Business Intelligence is also responsible for the prompt banking of all monies received.
- 6.1.3 The Director of Finance & Business Intelligence shall be consulted about the pricing of goods and services offered for sale.
- 6.1.4 The Trust may carry out or undertake activities for the purpose of making additional income available and/or in order to better carry out the Trusts principal purpose subject to any restrictions contained within the regulatory framework.

6.2 Fees and Charges

- 6.2.1 The Trust shall have regard to and, where required, follow the Approved Costing Guidance (published by NHS Improvement, updated January 2017) and any later version of such guidance in setting prices for NHS service agreements.
- 6.2.2 The Director of Finance & Business Intelligence is responsible for approving and regularly reviewing the level of all fees and charges other than those determined by the Department of Health 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 employees must inform the Director of Finance & Business Intelligence 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 Debt Recovery

- 6.3.1 The Director of Finance & Business Intelligence is responsible for the appropriate recovery action on all outstanding debts. The Director of Finance & Business Intelligence shall establish the Trust procedure for the issuing of credit notes and write-off debts after all reasonable steps have been taken to secure payment.
- 6.3.2 Income not received should be dealt with in accordance with losses procedures, and reported to the Audit Committee.

6.3.3 Overpayments should be detected (or preferably prevented where possible) and recovery initiated as per the Trust's debt recovery procedure.

6.4 Security of Cash, Cheques and Other Negotiable Instruments

6.4.1 The Director of Finance & Business Intelligence 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;
- (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 Trust.

6.4.2 Official money shall not under any circumstances be used for the encashment of private cheques or 'IOU's.

6.4.3 All cheques, postal orders, cash etc., shall be banked intact promptly in accordance with the Director of Finance & Business Intelligence's procedures, to the credit of the Trust's Main Account or, if appropriate, the relevant trust fund bank account. Disbursements shall not be made from cash received, except under arrangements approved by the Director of Finance & Business Intelligence.

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

6.4.5 All unused cheques and other orders shall be subject to the same security precautions as are applied to cash.

6.4.6 Any loss or shortfall of cash, cheques or other negotiable instruments, however occasioned, shall be reported immediately to the Director of Finance & Business Intelligence and dealt with in accordance with the agreed procedure for reporting losses.

7. TENDERING AND CONTRACTING PROCEDURE

7.1 Duty to Comply with Standing Orders and Standing Financial Instructions

7.1.1 The procedures to be followed by the Trust in relation to all contract opportunities

with the Trust and for awarding all contracts with the Trust shall comply with these Standing Financial Instructions, these SFIs should be considered in conjunction with the Scheme of Delegation (SoD) and Standing Orders (SOs)..

7.1.2 This SFI 7 is structured as follows:

- a) Legislation and Policy Framework, referring to the main requirements of law and policy. This section is not definitive and other guidance may also be applicable to any decision or procurement (SFIs 7.1 to 7.3 inclusive);
- b) The decision to tender and exceptions to the requirements to tender (SFI 7.4);
- c) Tendering Procedure, where a decision is made to tender pursuant to SFI 7.4 (SFI 7.5);
- d) Quotations where no tender process (SFI 7.6);
- e) Evaluation of tenders and quotations (SFI 7.7);
- f) Award of contracts (SFI 7.8);
- g) Form of Contract (SFI 7.9);
- h) Specific Requirements (SFI 7.10);
- i) Cancellation of Contracts (SFI 7.11).

7.2 Legislation Governing Public Procurement

7.2.1 The Trust shall comply with the Public Contracts Regulations 2015 or any successor regulations (the "Regulations"), and to the extent that they apply to procurement processes run by the Trust, any EU Directives relating to EU procurement law having direct effect in England (the "Directives"), any duties derived from the EU Treaty on the functioning of the European Union ("Treaty Obligations") and any duties derived from the UK common law ("Common Law Duties") (the Regulations, Directives, Treaty Obligations and Common Law Duties are together referred to elsewhere in these SFIs as "Procurement Legislation"). The Procurement Legislation as amended from time to time shall have effect as if incorporated into these SFIs.

7.2.2 The Trust should consider obtaining support from the NHS Supply Chain and/or the Crown Commercial Services where relevant and/or any suitably qualified professional advisor (including, where appropriate, legal advisors) to ensure compliance with Procurement Legislation when engaging in tendering procedures.

7.2.3 The Trust shall consider whether any duty to engage with or consult the public or any relevant overview and scrutiny committee of a local authority applies, prior to commencing any procurement process for a contract opportunity. A duty may arise where the opportunity relates to or arises in the context of changes to healthcare services.

7.2.4 When procuring services the Trust should have regard to the requirements of the Public Services (Social Value) Act 2012.

7.3 Guidance on Procurement and Commissioning

The Trust should have regard to all relevant guidance issued in relation to the conduct of procurement processes, to the extent applicable to the Trust, including the Department of Health's "Capital Investment Manual" and "Estate code" in respect of capital investment and estate and property transactions, or any

successor guidance issued from time to time.

7.4 Decision to Tender and Exceptions to Requirement to Tender

7.4.1 Presumption to Tender

If the Trust has a contract opportunity for:

- i) the supply of goods, materials and/or manufactured articles;
- ii) the rendering of services including all forms of management consultancy services; and/or
- iii) the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens);

then where:

- a) the contract opportunity is required to be tendered under the Regulations or the 2006 Regulations (i.e. the contract opportunity is governed by the Regulations or the 2006 Regulations and the value of the contract opportunity as calculated pursuant to the Regulations or the 2006 Regulations exceeds the relevant financial threshold* for the requirement to run a formal tender process); or
- b) the contract opportunity is for services that fall within the Light Touch Regime (which shall have the meaning given to the phrase under the Regulations) and where such services are above the relevant financial threshold for the application of the Light Touch Regime;

the Trust shall, subject to SFI 7.4.3, ensure that the contract opportunity is advertised in accordance with SFI 7.5.3 and, where more than one response is received, that competitive tenders are invited in accordance with SFI 7.5.6.

*For the avoidance of doubt, where it is proposed that an organisation will receive a percentage of any savings that it generates under a contract, rather than or in addition to being paid directly by the Trust, the value of the savings that it is anticipated that the organisation will receive should be taken into account in calculating the “value of the contract opportunity” for the purposes of SFI 7.4.1(a). Additionally, where any contract opportunity is let in a number of lots, the Trust shall use the aggregate value of those lots in calculating the “value of the contract opportunity” for the purposes of SFI 7.4.1(a).

7.3.1 Sub-contracting Health Care Services: Decision to Tender

Health care services are Schedule 3 Services (being those services which fall under the Light Touch Regime and which are outlined in schedule 3 of the Regulations). For Schedule 3 Services, there is an obligation to advertise services by virtue of SFI 7.4.1 (b) above as long as the contract value exceeds the applicable threshold unless an exemption applies. In those circumstances, the opportunity will need to be advertised and a form of competitive process carried out unless it is established following the advertisement that there is only one provider interested in providing the services. No requirement to advertise the services arises by virtue of SFI 7.4.1(a) or (b) above, if the contract value is below the applicable threshold. Notwithstanding the above, please note that other obligations set out in part 4 of the

Regulations may apply to such below threshold contracts and these should be identified and complied with.

7.4.3 Exceptions and Instances where Formal Tendering need not be Applied

Where a contract opportunity is required to be advertised and tendered under SFI 7.4.1, such a contract opportunity need not be advertised and tendered and formal tendering procedures **need not be applied** where:

- (a) the estimated expenditure or income does not, or is not reasonably expected to, exceed the relevant financial threshold for the application of the Regulations. Please refer to limitations quoted in Annex 1.

For the avoidance of doubt, where it is proposed that an organisation will receive a percentage of any savings that it generates under a contract, rather than or in addition to being paid directly by the Trust, the value of the savings that it is anticipated that the organisation will receive should be taken into account in calculating the “estimated expenditure” for the purposes of this SFI 7.4.1(a).

- (b) it concerns a disposal falling within SFIs SFI 7.10.1 and/or within SFI 15.1.3;
- (c) the requirement can be met by an existing contract without infringing Procurement Legislation;
- (d) the Trust is entitled to call off from a Framework Agreement and the requirements of SFI 7.4.6 (Use of Framework Agreements) have been met;
- (e) a consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the Trust; or
- (f) an exception permitting the use of the negotiated procedure without notice validly applies under Regulation 14 of the 2006 Regulations or Regulations 32 of the Regulations;

Formal tendering procedures **may be waived** in the following circumstances:

- (g) in very exceptional circumstances where the Chief Executive decides that formal tendering procedures would not be practicable or the estimated expenditure or income would not warrant formal tendering procedures, and the circumstances are detailed in an appropriate Trust record;
- (h) where the timescale genuinely precludes competitive tendering for reasons of extreme urgency brought about by events unforeseeable by the Trust and not attributable to the Trust and the time limits for other procedures in the Regulations or the 2006 Regulations (as applicable) cannot be complied with. Failure to plan work properly is not a justification for waiving the requirement to tender;
- (i) where the works, services or supply required are available from only one source when competition is absent for technical reasons or artistic reasons or for reasons connected with the protection of exclusive rights (including Intellectual Property Rights);
- (j) when the goods required by the Trust are a partial replacement for, or in

addition to, existing goods and to obtain the goods from a supplier other than the supplier which supplied the existing goods would oblige the Trust to acquire goods with different technical characteristics and this would result in:

- i) incompatibility with the existing goods; or
- ii) disproportionate technical difficulty in the operation and maintenance of the existing goods;

but no such contract may be entered into for a duration of more than three years;

- (k) when new works or services consisting of a repetition of similar works or services entrusted to the supplier to which the Trust awarded the original contract following a compliant tender process are required. The initial tender process must have indicated the extent of possible additional works and the conditions under which they would be awarded. No such contract may be entered into for more than three years
- (l) when works, goods, or services required by the Trust are additional to works, goods, or services already contracted for, and were not included in the initial procurement, where a change of contractor- :
 - i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, and
 - ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority.

provided that the value of such additional works or services does not exceed 50% of the value of the original contract. For this to apply, all of the following conditions must be fulfilled -:

- (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;
 - (ii) the modification does not alter the overall nature of the contract;
 - (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.
- (m) for the provision of legal advice and/or services provided that any provider of legal advice and/or services commissioned by the Trust is regulated by the Solicitors Regulation Authority for the conduct of their 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 they are commissioned.

The Director of Finance & Business Intelligence will ensure that any fees paid are reasonable and within commonly accepted rates for the costing of such work.

7.4.4 Monitoring and Audit of Decision to Tender

- a) The waiving of competitive tendering procedures should not be used with the object of avoiding competition or solely for administrative convenience or, subject to SFIs 7.4.3 (j) to (l), to award further work to a provider originally

- appointed through a competitive procedure.
- b) Where it is decided that competitive tendering need not be applied or should be waived, the fact of the waiver and the reasons should be documented and recorded in an appropriate Trust record and reported to the Audit Committee at the next meeting.

7.4.5 Contracts which Subsequently Breach Thresholds after Original Approval not to Tender

Contract opportunities estimated to be below the financial limits set in this SFI 7 or below the threshold for the application of the requirement to tender under the Procurement Legislation, for which formal tendering procedures are not used, but which subsequently prove to have a value above such limits shall be reported to the Chief Executive, and be recorded in an appropriate Trust record.

7.4.6 Use of Framework Agreements

The Trust may utilise any available framework agreement to satisfy its requirements for works, services or goods but only if it complies with the requirements of Procurement Legislation in doing so, which include (but are not limited to) ensuring that:

- a) the framework agreement was procured on its behalf. The Trust should satisfy itself that the original procurement process included the Trust within its scope;
- b) the framework agreement includes the Trust's requirement within its scope. The Trust should satisfy itself that this is the case;
- c) where the framework agreement is a multi-operator framework agreement, the process for selecting providers to be awarded call-off contracts under the framework agreement is followed; and
- d) the call-off contract entered into with the provider contains the contractual terms set out by the framework agreement.

7.4.7 In-House Services: Decision to Tender 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 Trust may also determine from time to time that in-house services should be market tested by competitive tendering.

7.4.8 Contracts below the relevant Financial Threshold

Contract opportunities which fall below the relevant threshold should be dealt with under SFI 7.6.

7.5 Tendering Procedure

7.5.1 Equality of Treatment

The Trust shall ensure that no sector of any market (public, private, third

sector/social enterprise) is given an unfair advantage in the design or conduct of any tender process. Save that the Trust may exercise the provisions within the Regulations (see regulation 77) that allow it to reserve certain contracts for certain services to qualifying organisations as long as such contract awards comply with the requirements of the Regulations.

7.5.2 Non-Discrimination

- a) The subject matter and the scope of the contract opportunity should be described in a non-discriminatory manner. The Trust should utilise generic and/or descriptive terms, rather than the trade names of particular products or processes or their manufacturers or their suppliers.
- b) All participants in a tender process should be treated equally and all rules governing a tender process must apply equally to all participants.

7.5.3 Advertisement of Contract Opportunities

Where advertisement of a contract opportunity is required under SFI 7.4.1 then:

- a) where a contract opportunity falls within the Regulations and/or the 2006 Regulations and a process compliant with the Regulations and/or the 2006 Regulations is required, an OJEU Notice should be utilised; or
- b) where a contract opportunity falls within the Light Touch Regime, an OJEU Notice or PIN notice should be utilised.
- c) Where a contract opportunity falls below the financial threshold of the Regulations, it may still need to be advertised on Contracts Finder. The requirements of the Regulations should be confirmed and followed in relation to all below threshold procurements.

7.5.4 Choice of Procedure

- a) Where a contract opportunity falls within the Regulations and/or the 2006 Regulations and a process compliant with the Regulations and/or the 2006 Regulations is required then the Trust shall utilise an appropriate tender procedure under the Regulations and/or the 2006 Regulations.
- b) In all other cases, the Trust shall utilise a tender procedure proportionate to the value, complexity and risk of the contract opportunity and shall ensure that invitations to tender are sent to a sufficient number of providers to provide fair and adequate competition.
- c) When exercising its obligations under SFI 7.5.4 (a) and (b) above, and to the extent that such a process complies with the requirements set out in this SFI 7, the Trust may use an electronic tendering process (including the use of reverse e-auctions) for the tendering of contract opportunities.

7.5.5 Invitation to Tender

- a) All invitations to tender shall state the date and time as being the latest time for the receipt of tenders.
- b) Save where an electronic tendering process is utilised by the Trust, all

invitations to tender shall state that no tender will be accepted unless:

- i) submitted in a plain sealed package or envelope bearing a pre-printed label supplied by the Trust (or the word "tender" followed by the subject to which it relates) and the latest date and time for the receipt of such tender addressed to the Chief Executive or nominated Manager;
 - ii) tender envelopes/ packages bear no names or marks indicating the sender. Where courier or postal services are used to deliver tender documents, such services must not identify the sender on the envelope or on any receipt so required by such services.
- c) Every invitation to tender must require each bidder to give a written undertaking not to engage in collusive tendering or other restrictive practice and not to engage in canvassing the Trust, its employees or officers concerning the contract opportunity tendered.

7.5.6 Receipt and Safe Custody of Tenders

- a) The Chief Executive or his nominated representative (who may not be from the department that sponsored or commissioned the relevant invitation to tender; referred to as the "Originating Department" for the remainder of this SFI 7) will be responsible for the receipt, endorsement and safe custody of tenders received until the time appointed for their opening.
- b) Where hard copy tenders are received, the date and time of receipt of each tender shall be endorsed on the tender envelope/package by the Chief Executive or his nominated representative.

7.5.7 Opening Tenders and Register of Tenders

- a) As soon as practicable after the date and time stated as being the latest time for the receipt of tenders, they shall be opened or accessed in the case of an electronic tender, by two senior officers/managers designated by the Chief Executive (who may not be from the Originating Department).
- b) A member of the Trust Board will be required to be one of the two approved persons present for the accessing of tenders estimated to be of a value above £1,000,000. The rules relating to the accessing of tenders will need to be read in conjunction with any delegated authority set out in the Trust's Scheme of Delegation.
- c) Subject to SFI 7.5.10, the involvement of Finance Directorate staff in the preparation of a tender proposal will not preclude the Director of Finance & Business Intelligence or any approved Senior Manager from the Finance Directorate from serving as one of the two senior managers to access tenders. The Trust's Head of Corporate Governance will count as a Director for the purposes of accessing tenders.
- d) All Executive Directors/members will be authorised to access tenders regardless of whether they are from the Originating Department provided that the other authorised person accessing the tenders with them is not from the Originating Department.

- e) Every tender received shall be marked with the date of accessing and initialed by those present at the accessing of the relevant tender.
- f) A register shall be maintained by the Chief Executive, or a person authorised by him, to show for each competitive invitation to tender dispatched:
 - i. the name of all organisations/individuals invited to tender;
 - ii. the names of all organisations/individuals from which tenders have been received;
 - iii. the date the tenders were received and the date the tenders were accessed;
 - iv. the persons present at the accessing;
 - v. the price shown on each tender; and
 - vi. a note where price alterations have been made on the tender and suitably initialed.

Each entry to this register shall be signed by those present at the accessing of the relevant tenders.

A note shall be made in the register if any one tender price has had so many alterations that it cannot be readily read or understood.

7.5.8 Admissibility of Tenders

- a) If for any reason the designated officers are of the opinion that the tenders received are not sufficient to demonstrate competition (for example, because their numbers are insufficient or any are amended, incomplete or qualified) no contract shall be awarded without the approval of the Chief Executive.
- b) Where only one tender is sought and/or received, the Chief Executive and Director of Finance & Business Intelligence shall, as far practicable, ensure that the price to be paid is fair and reasonable and will ensure value for money for the Trust.

7.5.9 Late Tenders

- a) Tenders received after the due time and date, but prior to the accessing of the other tenders, may be considered only if the Chief Executive or his nominated officer decides that there are exceptional circumstances i.e. dispatched in good time but delayed through no fault of the tenderer.
- b) Only in the most exceptional circumstances will a tender be considered which is received after the accessing of the other tenders and only then if the tenders that have been duly accessed have not left the custody of the Chief Executive or his nominated officer or if the process of evaluation and adjudication has not started.
- c) While decisions as to the admissibility of late, incomplete or amended tenders are under consideration, the tender documents shall be kept strictly confidential, recorded, and held in safe custody by the Chief Executive or his nominated officer.
- d) Accepted late tenders will be reported to the Board.

7.5.10 Accountability where In-House Bid

- a) In all cases where the Board determines that in-house services should be subject to competitive tendering the following groups shall be set up:
 - i) Specification group, comprising the Chief Executive or nominated officer/s and a specialist officer whose function shall be to draw up the specification of the service to be tendered.
 - ii) In-house tender group, comprising a nominee of the Chief Executive and technical support to draw up and submit the in-house tender submission. Best value of money must be demonstrated for all services provided on an in-house basis.
 - iii) Evaluation group, comprising normally a specialist officer, a supplies or commissioning officer and a Director of Finance & Business Intelligence representative whose function is to shortlist expressions of interest received and evaluate tenders received. For services having a likely annual expenditure exceeding £300,000, a Non-Executive Director should be a member of the evaluation team.
- b) No officer or employee of the Trust directly engaged or responsible for the provision of the in-house service subject to competitive tendering may be a member of any of the specification or evaluation groups established under SFI 7.10(a) but the specification group may consult with and take into account information received from such officers or employees in drawing up the Trust's specification, subject at all times to observing the duty of non-discrimination at SFI 7.5.2. No member of the in-house tender group may participate in the evaluation of tenders.
- c) The evaluation group shall make recommendations to the Board.

7.6 Quotations: Competitive and Non-Competitive

7.6.1 Requirement to Obtain Competitive Quotations

- a) Subject to SFI 7.6.1(b), SFI 7.6.1(c) and SFI 7.6.1(d), competitive quotations are required for all contract opportunities where formal tendering procedures are not adopted and where the intended expenditure or income exceeds, or is reasonably expected to exceed [£5,000] but not exceed the relevant financial threshold for the application of the Regulations excluding VAT. For the avoidance of doubt, where it is proposed that an organisation will receive a percentage of any savings that it generates under a contract, rather than or in addition to being paid directly by the Trust, the value of the savings that it is anticipated that the organisation will receive should be taken into account in calculating the "intended expenditure" for the purposes of this SFI 7.6.1(a). Additionally, where any contract opportunity is let in a number of lots, the Trust shall use the aggregate value of those lots in calculating the "value of the contract opportunity" for the purposes of SFI 7.6.1(a).
- b) Competitive quotations are not required where a contract opportunity need not be advertised and tendered under SFI 7.4.3 (b) to (f) inclusive.

- c) Competitive quotations are not required where the requirement to advertise and tender a contract opportunity has been waived under SFI 7.4.3(g) to (m) inclusive.
- d) Competitive quotations are not required where a contract opportunity is for a below threshold Schedule 3 Service. Nothing in this SFI shall prevent the Trust seeking competitive quotations should it wish to do so.

7.6.2 Competitive Quotations

Where competitive quotations are required under SFI 7.6.1:

- a) quotations should be obtained from at least three organisations/individuals based on specifications or terms of reference prepared by, or on behalf of, the Trust.
- b) quotations should be obtained in writing unless the Chief Executive or his nominated officer determines that it is impractical to do so in which case quotations may be obtained by telephone. Confirmation of telephone quotations should be obtained as soon as possible in writing and the reasons why the telephone quotation was obtained should be set out in an appropriate Trust record.
- c) all quotations should, subject to compliance with the provisions of the Freedom of Information Act 2000, be treated as confidential and should be retained for six months from the date of receipt for inspection.
- d) the Chief Executive or his nominated officer (who shall not be from the Originating Department) should evaluate each quotation received by applying evaluation criteria in accordance with SFI 7.7.2 and select the quote which gives the best value for money.

7.6.3 Non-Competitive Quotations

- a) Non-competitive quotations in writing must be obtained for any contract opportunity where formal tendering procedures are not adopted and where competitive quotations are not required under SFI 7.6.1.

7.6.4 Quotations to be within Financial Limits

No quotation shall be accepted by the Trust which will commit expenditure in excess of that which has been allocated by the Trust except with the authorisation of either the Chief Executive or the Director of Finance & Business Intelligence.

7.7 Evaluation of Tenders and Quotations

7.7.1 Overriding Duty to Achieve Best Value

The Trust shall ensure that it seeks to obtain best value for each contract opportunity.

7.7.2 Choice of Evaluation Methodology

The Trust must, for each contract opportunity which is subject to a tender or a competitive quotation, choose to adopt evaluation criteria based on either:

- a) the most economically advantageous tender, based on criteria linked to the subject matter of the contract opportunity including but not limited to some or all of:
 - i) quality;
 - ii) price;
 - iii) technical merit;
 - iv) aesthetic and functional characteristics;
 - v) innovative characteristics
 - vi) qualification and experience of staff assigned to perform the contract (when this can have significant impact on the level of performance of the contract)
 - vii) environmental characteristics;
 - viii) running, maintenance and consumable costs;
 - ix) cost effectiveness;
 - x) after sales service;
 - xi) technical assistance;
 - xii) delivery date;
 - xiii) delivery period; and/or
 - xiv) period of completion.

7.7.3 Each invitation to tender or invitation to supply a competitive quotation must state the evaluation criteria to be used to evaluate the tender or quotation and the relative weightings of each such criteria.

7.8 Award of Contracts

7.8.1 Acceptance of Formal Tenders

- a) Any discussions with a tenderer which are deemed necessary to clarify technical aspects of his/her tender before the award of a contract will not disqualify the tender.
- b) 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 upon his own initiative either orally or in writing after the due time for receipt) should be dealt with in the same way as late tenders (see SFI 7.5.9 above).
- c) Where examination of tenders reveals errors which would affect the value of the tender, the tenderer may be given details of such errors and afforded the opportunity of confirming or withdrawing his offer.
- d) No tender shall be accepted by the Trust which will commit expenditure in excess of that which has been allocated by the Trust except with the authorisation of the Chief Executive.
- e) No tender shall be accepted by the Trust which is obtained contrary to these SFIs except with the authorisation of the Chief Executive or Director of Finance & Business Intelligence.

- f) All tenders should, subject to compliance with the provisions of the Freedom of Information Act 2000, be kept confidential and should be retained for 12 months from the date set for the receipt of tenders for inspection.

7.8.2 Authorisation of Tenders and Competitive Quotations

- a) Providing all the requirements set out in these SFIs have been fully complied with, formal authorisation and awarding of a contract may be decided in accordance with the approved delegated financial limits set out in the Trust's Scheme of Delegation.
- b) Formal authorisation must be put in writing. In the case of authorisation by the Board this shall be recorded in its minutes.

7.8.3 Tender Reports to the Trust Board

Reports to the Board will be made on an exceptional-circumstances basis only.

7.9 Form of Contract

7.9.1 Form of Contract: General

Subject to the remainder of this SFI 7.9, the Trust shall consider the most appropriate form of contract for each contract opportunity (including to the extent appropriate any NHS Standard Contract Conditions available) and should consider obtaining support from a suitably qualified professional advisor (including where appropriate legal advisors).

7.9.2 Contracts for Building or Engineering Works

- a) Subject to SFIs 7.9.2(b) to (d) inclusive, every contract for building or engineering works shall embody or be in the terms of the current edition of one of the Joint Contracts Tribunal Standard Forms of Building Contract or Department of the Environment (GC/Wks) Standard forms of contract amended to comply with Concode (where applicable).
- b) When the content of the work is primarily engineering, every contract shall embody or be in the terms of:
 - i) the General Conditions of Contract recommended by the Institution of Mechanical Engineers; and/or
 - ii) the Association for Consultancy and Engineering (Form A);
- c) In the case of civil engineering work, every contract shall embody or be in the terms of the General Conditions of Contract recommended by:
 - i) the Institution of Civil Engineers; and/or
 - ii) the Association for Consultancy and Engineering; and/or

- iii) the Civil Engineering Contractors Association.
- d) Each of the documents referred to in SFIs 7.9.2 (a) to (c) inclusive may be modified and/or amplified to accord with Department of Health guidance and, with appropriate professional advice (including legal advice if necessary), to cover special features of individual projects.

7.9.3 Employment, Agency and Consultants Contracts

The Chief Executive shall nominate officers with delegated authority to enter into permanent and temporary contracts of employment and other contracts for agency staff or persons engaged on a consultancy basis.

7.9.4 Compliance Requirements for all Contracts

The Trust may only enter into contracts within its statutory powers and each such contract shall:

- a) comply with the Trust's SOs and SFIs;
- b) comply with the requirements of all EU Directives directly enforceable in the UK and all other statutory provisions;
- c) embody substantially the same terms and conditions of contract that formed the basis on which tenders or quotations were invited;
- d) be entered into and managed to obtain best value;
- e) have an officer nominated by the Chief Executive to oversee and manage each contract on behalf of the Trust.

7.10 Specific Requirements

Disposals

Competitive 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 supplies policy of the Trust;
- c) items to be disposed of with an estimated sale value of less than specified in Annex 1, this figure to be reviewed on a periodic basis;
- d) items arising from works of construction, demolition or site clearance, which should be dealt with in accordance with the relevant contract; and/or
- e) land or buildings concerning which DH guidance has been issued but subject to compliance with such guidance.

7.10.1 Applicability of SFIs on Tendering and Contracting to Funds held in Trust

These SFIs shall not only apply to expenditure from Exchequer funds but also to works, services and goods purchased from the Trust's trust funds and private resources.

7.10.2 Private Finance for Capital Procurement

When the Board proposes, or is required, to use finance provided by the private sector the following should apply:

- a) The Chief Executive shall demonstrate that the use of private finance represents value for money as against a public sector comparator and genuinely transfers risk to the private sector;
- b) The Trust must seek all applicable approvals and meet the requirements of all relevant Department of Health guidance;
- c) The proposal must be specifically agreed by the Trust Board; and
- d) The selection of a contractor/finance company must be on the basis of competitive tendering or quotations compliant with the duties set out in this SFI 16.

7.10.3 E-tendering

Nothing in this SFI 16 shall preclude the Trust from establishing and utilising electronic tendering procedures.

7.11 Cancellation of contracts

Except where specific provision is already made in any applicable mandatory NHS Standard Contract Conditions to be utilised by the Trust - there shall be inserted in every written contract a clause empowering the Trust to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if

- (a) the contractor shall have offered, or given or agreed to give, any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or
- (b) 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 Trust, or
- (c) for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Trust, or
- (d) 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
- (e) if in relation to any contract with the Trust the contractor or any person employed by him or acting on his behalf shall have committed any offence under the Bribery Act 2010 and other appropriate legislation, or

- (f) If the contract has been subject to a substantial modification which would have required a new procurement procedure, or
- (g) The contractor should, at the time of the contract award, have been excluded on any of the mandatory ground set out in the Regulations.

Save that for paragraph 7.11 (f) and (g) above the Trust shall not have an absolute right to recover from the contractor the amount of any loss resulting from such cancellation.

8 CONTRACTS FOR PROVISION OF SERVICES

8.1 Contracts

The Chief Executive, as the Accountable Officer, is responsible for ensuring the Trust enters into suitable contracts with service commissioners for the provision of services.

All contracts should aim to implement the agreed priorities contained within the Trust's annual 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 Single Oversight Framework (NHS Improvement) and any guidance that replaces such guidance;
- that contracts build where appropriate on existing investment plans;
- that contracts are based on integrated care pathways.

8.2 Involving Partners and Jointly Managing Risk

A good contract will result from a dialogue between clinicians, users, carers, public health professionals and managers. It will reflect knowledge of local needs and inequalities. This will require the Chief Executive to ensure that the Trust works with all partner agencies involved in both the delivery and the commissioning of the service required. The contract should apportion responsibility for handling a particular risk to the party or parties in the best position to influence the event and financial arrangements should reflect this. In this way the Trust can jointly manage risk with all interested parties.

8.3 Reports to Board on Contracts

The Chief Executive, as the Accountable Officer, will need to ensure that regular reports are provided to the Board detailing actual and forecast income from Contracts. This will include information on costing arrangements, which increasingly should be based upon best practice and national guidance, where these are available for Community Services. Where best practice and national guidance is

unavailable for specific services, all parties should agree a common currency for application across the range of Contracts.

9. TERMS OF SERVICE, ALLOWANCES AND PAYMENT OF MEMBERS OF THE TRUST BOARD AND EXECUTIVE COMMITTEE AND EMPLOYEES

9.1 Remuneration and Terms of Service (see overlap with SO No. 4)

9.1.1 In accordance with Standing Orders the Board shall establish a Remuneration and Terms of Service 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.)

9.1.2 The Committee will:

- (a) advise the Board about appropriate remuneration and terms of service for the Chief Executive, other Executive Directors employed by the Trust and other senior employees including:
 - (i) all aspects of salary (including any performance-related elements/bonuses);
 - (ii) provisions for other benefits, including pensions and cars;
 - (iii) arrangements for termination of employment and other contractual terms;
- (b) make such recommendations to the Board on the remuneration and terms of service of Executive Directors of the Board (and other senior employees) to ensure they are fairly rewarded for their individual contribution to the Trust - having proper regard to the Trust's circumstances and performance and to the provisions of any national arrangements for such members and staff where appropriate;
- (c) monitor and evaluate the performance of individual Executive Directors (and other senior employees);
- (d) advise on and oversee appropriate contractual arrangements for such staff including the proper calculation and scrutiny of termination payments taking account of such national guidance as is appropriate.

9.1.3 The Committee shall report in writing to the Board the basis for its recommendations. The Board shall use the report as the basis for their decisions, but remain accountable for taking decisions on the remuneration and terms of service of Executive Directors. Minutes of the Board's meetings should record such decisions.

9.1.4 The Board will consider and need to approve proposals presented by the Chief Executive for the setting of remuneration and conditions of service for those employees and officers not covered by the Committee.

9.1.5 The Trust will pay allowances to the Chair and Non-Executive Directors of the Board in accordance with instructions issued by the Secretary of State for Health.

9.2 Funded Establishment

- 9.2.1 The manpower plans incorporated within the annual budget will form the funded establishment.
- 9.2.2 The funded establishment of any department may not be varied without the approval of the Chief Executive.

9.3 Staff Appointments

- 9.3.1 No officer or Member of the Trust Board or employee may engage, re-engage, or re-grade employees, either on a permanent or temporary nature, or hire agency staff, or agree to changes in any aspect of remuneration:
- (a) unless authorised to do so by the Chief Executive;
- and
- (b) within the limit of their approved budget and funded establishment.
- 9.3.2 The Board will approve procedures presented by the Chief Executive for the determination of commencing pay rates, condition of service, etc, for employees.

9.4 Processing Payroll

- 9.4.1 The Director of Finance & Business Intelligence is responsible for:
- (a) specifying timetables for submission of properly authorised time records and other notifications;
 - (b) the final determination of pay and allowances;
 - (c) making payment on agreed dates;
 - (d) agreeing method of payment.
- 9.4.2 The Director of Finance & Business Intelligence will issue instructions regarding:
- (a) verification and documentation of data;
 - (b) the timetable for receipt and preparation of payroll data and the payment of employees and 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 and

- officers;
- (h) procedures for payment by cheque, bank credit, or cash to employees and officers;
- (l) 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 those leaving the employment of the Trust of sums of money and property due by them to the Trust.

9.4.3 Appropriately nominated managers have delegated responsibility for:

- (a) submitting time records, and other notifications in accordance with agreed timetables;
- (b) completing time records and other notifications in accordance with the Director of Finance & Business Intelligences' instructions and in the form prescribed by the Director of Finance & Business Intelligence;
- (c) submitting termination forms in the prescribed form immediately upon knowing the effective date of an employees or officer's resignation, termination or retirement. Where an employee fails to report for duty or to fulfill obligations in circumstances that suggest they have left without notice, the Director of Finance & Business Intelligence must be informed immediately.

9.4.4 Regardless of the arrangements for providing the payroll service, the Director of Finance & Business Intelligence 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.

9.5 Contracts of Employment

9.5.1 The Board shall delegate responsibility to an officer or officers 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.

10. NON-PAY EXPENDITURE

10.1 Delegation of Authority

- 10.1.1 The Board will approve the level of non-pay expenditure on an annual basis and the Chief Executive will determine the level of delegation to budget managers.
- 10.1.2 The Chief Executive will set out:
- (a) the list of managers who are authorised to place requisitions for the supply of goods and services;
 - (b) the maximum level of each requisition and the system for authorisation above that level.
- 10.1.3 The Chief Executive shall set out procedures on the seeking of professional advice regarding the supply of goods and services.

10.2 Choice, Requisitioning, Ordering, Receipt and Payment for Goods and Services (see overlap with Standing Financial Instruction No. 16)

10.2.1 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 Trust. In so doing, the advice of the Trust's adviser on supply shall be sought. Where this advice is not acceptable to the requisitioner, the Director of Finance & Business Intelligence (and/or the Chief Executive) shall be consulted.

10.2.2 System of Payment and Payment Verification

The Director of Finance & Business Intelligence 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.

10.2.3 Director of Finance & Business Intelligence

The Director of Finance & Business Intelligence will:

- (a) advise the Board regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; and, once approved, the thresholds should be incorporated in the Trust's Standing Financial Instructions and regularly reviewed;
- (b) prepare procedural instructions or guidance in accordance with SFI No. 16 on the obtaining of goods, works and services;
- (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 employees (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, 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 & Business Intelligence 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 No. 21.2.4 below.

10.2.4 Prepayments

Prepayments are only permitted where exceptional circumstances apply. In such instances:

- (a) Material prepayments are only permitted where the financial advantages 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 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 & Business Intelligence will need to be satisfied with the proposed arrangements before contractual arrangements proceed (taking

into account the requirements of SFI No.16);

- (d) The budget holder is responsible for ensuring that all items due under a prepayment contract are received and they must immediately inform the appropriate Director or Chief Executive if problems are encountered.

10.2.5 Official Orders

Official Orders must:

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

10.2.6 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 & Business Intelligence 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 & Business Intelligence in advance of any commitment being made;
- (b) contracts are advertised and awarded in accordance with SFI No.7;
- (c) where consultancy advice is being obtained, the procurement of such advice must be in accordance with guidance issued by the Department of Health;
- (d) no order shall be issued for any item or items to any firm which has made an offer of gifts, reward or benefit to directors or employees, 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. 6 and the principles outlined in the national guidance contained in HSG 93(5) "Standards of Business Conduct for NHS Staff");

- (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 & Business Intelligence 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;
- (g) verbal orders must only be issued very exceptionally - by an employee 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 Trust to a future uncompetitive purchase;
- (j) changes to the list of employees and officers authorised to certify invoices are notified to the Director of Finance & Business Intelligence;
- (k) purchases from petty cash are restricted in value and by type of purchase in accordance with instructions issued by the Director of Finance & Business Intelligence;
- (l) petty cash records are maintained in a form as determined by the Director of Finance & Business Intelligence.

10.2.7 The Chief Executive and Director of Finance & Business Intelligence 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 CONCODE and ESTATECODE. The technical audit of these contracts shall be the responsibility of the relevant Director.

11. EXTERNAL BORROWING

11.1 External Borrowing

- 11.1.1 The Director of Finance & Business Intelligence will advise the Board concerning the Trust's ability to pay dividend on, and repay Public Dividend Capital and any proposed new borrowing, within the limits set by the Department of Health. The Director of Finance & Business Intelligence is also responsible for reporting periodically to the Board concerning the PDC debt and all loans and overdrafts.
- 11.1.2 The Board will agree the list of employees (including specimens of their signatures) who are authorised to make short term borrowings on behalf of the Trust. This must contain the Chief Executive and the Director of Finance & Business Intelligence.
- 11.1.3 The Director of Finance & Business Intelligence must prepare detailed procedural instructions concerning applications for loans and overdrafts.
- 11.1.4 All short-term borrowings should be kept to the minimum period of time possible, consistent with the overall cash flow position, represent good value for money, and comply with the latest guidance from the Department of Health.
- 11.1.5 Any short-term borrowing must be with the authority of two members of an authorised panel, one of which must be the Chief Executive or the Director of Finance & Business Intelligence. The Board must be made aware of all short term borrowings at the next Board meeting.
- 11.1.6 All long-term borrowing must be consistent with the plans outlined in the current Trust financial plan and be approved by the Trust Board.

11.2 Investments

- 11.2.1 Temporary cash surpluses must be held only in such public or private sector investments as notified by the Secretary of State and authorised by the Board.
- 11.2.2 The Director of Finance & Business Intelligence is responsible for advising the Board on investments and shall report periodically to the Board concerning the performance of investments held.
- 11.2.3 The Director of Finance & Business Intelligence will prepare detailed procedural instructions on the operation of investment accounts and on the records to be maintained.

12. FINANCIAL GUIDANCE

- 12.1.1 The Director of Finance & Business Intelligence should ensure that:
 - (a) members of the Board are aware of all relevant financial guidance; and
 - (b) that the Trust has regard to this guidance/complies with this guidance, as required.

12. CAPITAL INVESTMENT, PRIVATE FINANCING, FIXED ASSET REGISTERS AND SECURITY OF ASSETS

13. Capital Investment

- 13.1.1 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 availability of resources to finance all revenue consequences, including capital charges.
- 13.1.2 For every capital expenditure proposal the Chief Executive shall ensure:
 - (a) that a business case (in line with the guidance contained within the *Capital Investment Manual*) 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 Trust personnel and external agencies;
 - (ii) appropriate project management and control arrangements;

- (b) that the Director of Finance & Business Intelligence has certified professionally to the costs and revenue consequences detailed in the business case.
- 13.1.3 For capital schemes where the contracts stipulate stage payments, the Chief Executive will issue procedures for their management, incorporating the recommendations of "Estate code".
- 13.1.4 The Director of Finance & Business Intelligence shall assess on an annual basis the requirement for the operation of the construction industry tax deduction scheme in accordance with Inland Revenue guidance.
- 13.1.5 The Director of Finance & Business Intelligence shall issue procedures for the regular reporting of expenditure and commitment against authorised expenditure.
- 13.1.6 The approval of a capital programme shall not constitute approval for expenditure on any scheme.

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 overlap with SFI No. 7);
- (c) approval to accept a successful tender (see overlap with SFI No. 7).

The Chief Executive will issue a scheme of delegation for capital investment management in accordance with "Estate code" guidance and the Trust's Standing Orders.

- 13.1.7 The Director of Finance & Business Intelligence shall issue procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes.

13.2 Private Finance (see overlap with SFI No. 7.10.3)

- 13.2.1 The Trust should normally test for PFI when considering capital procurement. When the Trust proposes to use finance which is to be provided other than through its Allocations, the following procedures shall apply:
 - (a) The Director of Finance & Business Intelligence shall demonstrate that the use of private finance represents value for money and genuinely transfers significant risk to the private sector.
 - (b) Where the sum involved exceeds delegated limits, the business case must be referred to the Department of Health or in line with any current guidelines.
 - (c) The proposal must be specifically agreed by the

Board.

13.3 Asset Registers

- 13.3.1 The Chief Executive is responsible for the maintenance of registers of assets, taking account of the advice of the Director of Finance & Business Intelligence

concerning the form of any register and the method of updating, and arranging for a physical check of assets against the asset register to be conducted once a year.

- 13.3.2 Each Trust shall maintain an asset register recording fixed assets.
- 13.3.3 Additions to the fixed asset register must be clearly identified to an appropriate budget holder and be validated by reference to:
- (a) properly authorised and approved agreements, architect's certificates, supplier's 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.
- 13.3.4 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).
- 13.3.5 The Director of Finance & Business Intelligence shall approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.
- 13.3.6 The value of each asset shall be indexed to current values in accordance with methods specified in the Department of Health Group Accounting Manual 2018-19 or any later version of such guidance.
- 13.3.7 The value of each asset shall be depreciated using methods and rates as specified in the Department of Health Group Accounting Manual 2018-19 or any later version of such guidance.
- 13.3.8 The Director of Finance & Business Intelligence of the Trust shall calculate and pay capital charges as specified in the Department of Health Group Accounting Manual 2018-19 or any later version of such guidance.

13.4 Security of Assets

- 13.4.1 The overall control of fixed assets is the responsibility of the Chief Executive.
- 13.4.2 Asset control procedures (including fixed assets, cash, cheques and negotiable instruments, and also including donated assets) must be approved by the Director of Finance & Business Intelligence. This procedure 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.

- 13.4.3 All discrepancies revealed by verification of physical assets to fixed asset register shall be notified to the Director of Finance & Business Intelligence.
- 13.4.4 Whilst each employee and officer has a responsibility for the security of property of the Trust, it is the responsibility of Board members and senior employees 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.
- 13.4.5 Any damage to the Trust's premises, vehicles and equipment, or any loss of equipment, stores or supplies must be reported by Board members and employees in accordance with the procedure for reporting losses.
- 13.4.6 Where practical, assets should be marked as Trust property.

14. STORES AND RECEIPT OF GOODS General Position

- 14.1.1 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.

14.2 Control of Stores, Stocktaking, Condemnations and Disposal

- 14.2.1 Subject to the responsibility of the Director of Finance & Business Intelligence for the systems of control, overall responsibility for the control of stores shall be delegated to an employee by the Chief Executive. The day-to-day responsibility may be delegated by him to departmental employees and stores managers/keepers, subject to such delegation being entered in a record available to the Director of Finance & Business Intelligence. The control of any Pharmaceutical stocks shall be the responsibility of a designated Pharmaceutical Officer; the control of any fuel oil and coal of a designated estates manager.
- 14.2.2 The responsibility for security arrangements and the custody of keys for any stores and locations shall be clearly defined in writing by the designated manager/Pharmaceutical Officer. Wherever practicable, stocks should be marked as health service property.
- 14.2.3 The Director of Finance & Business Intelligence shall set out procedures and systems to regulate the stores including records for receipt of goods, issues, and returns to stores, and losses.
- 14.2.4 Stocktaking arrangements shall be agreed with the Director of Finance & Business Intelligence and there shall be a physical check covering all items in store at least once a year.
- 14.2.5 Where a complete system of stores control is not justified, alternative arrangements shall require the approval of the Director of Finance & Business Intelligence.

- 14.2.6 The designated Manager/Pharmaceutical Officer shall be responsible for a system approved by the Director of Finance & Business Intelligence 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 & Business Intelligence any evidence of significant overstocking and of any negligence or malpractice (see also overlap with SFI No. 25 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.

14.3 Goods Supplied by NHS Logistics

- 14.3.1 For goods supplied via the NHS Logistics 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 & Business Intelligence who shall satisfy him/herself that the goods have been received before accepting the recharge.

15. DISPOSALS AND CONDEMNATIONS, LOSSES AND SPECIAL PAYMENTS

15.1 Disposals and Condemnations

15.1.1 Procedures

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

- 15.1.2 When it is decided to dispose of a Trust asset, the Head of Department or authorised deputy will determine and advise the Director of Finance & Business Intelligence of the estimated market value of the item, taking account of professional advice where appropriate.
- 15.1.3 All unserviceable articles shall be:
- (a) condemned or otherwise disposed of by an employee authorised for that purpose by the Director of Finance & Business Intelligence;
 - (b) recorded by the Condemning Officer in a form approved by the Director of Finance & Business Intelligence 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 employee authorised for the purpose by the Director of Finance & Business Intelligence.
- 15.1.4 The Condemning Officer shall satisfy him/herself as to whether or not there is evidence of negligence in use and shall report any such evidence to the Director of Finance & Business Intelligence who will take the appropriate action.

15.2 Losses and Special Payments

15.2.1 Procedures

The Director of Finance & Business Intelligence must prepare procedural instructions on the recording of and accounting for condemnations, losses, and special payments.

15.2.2 Any employee or 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 & Business Intelligence or inform an officer charged with responsibility for responding to concerns involving loss. This officer will then appropriately inform the Director of Finance & Business Intelligence and/or Chief Executive. Where a criminal offence is suspected, the Director of Finance & Business Intelligence 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 & Business Intelligence must inform the relevant LCFS and NHS Counter Fraud Authority in accordance with the fraud and corruption aspects of the Health and Social Care Act 2012.

The Director of Finance & Business Intelligence must notify NHS Counter Fraud Authority and the External Auditor of all frauds.

15.2.3 For losses apparently caused by theft, arson, neglect of duty or gross carelessness, except if trivial, the Director of Finance & Business Intelligence must immediately notify:

- (a) the Board,
- (b) the External Auditor.

15.2.4 Within limits delegated to it by the Department of Health, the Board shall approve the writing-off of losses.

15.2.5 The Director of Finance & Business Intelligence shall be authorised to take any necessary steps to safeguard the Trust's interests in bankruptcies and company liquidations.

15.2.6 For any loss, the Director of Finance & Business Intelligence should consider whether any insurance claim can be made.

15.2.7 The Director of Finance & Business Intelligence shall maintain a Losses and Special Payments Register in which write-off action is recorded.

15.2.8 No special payments exceeding delegated limits shall be made without the prior approval of the Department of Health.

15.2.9 All losses and special payments must be reported to the Audit Committee at every meeting.

16. INFORMATION TECHNOLOGY

16.1 Responsibilities and Duties of the Nominated Director with

Responsibility for Information Technology

- 16.1.1 The nominated Director, who is responsible for the accuracy and security of the computerised financial data of the Trust, shall:
- (a) devise and implement any necessary procedures to ensure adequate (reasonable) protection of the Trust's data, programs and computer hardware for which the Director is responsible from accidental or intentional disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for the General Data Protection Regulations (GDPR), the Data Protection Act (1998) and any subsequent legislation;
 - (b) ensure that adequate (reasonable) controls exist over 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 computer operation is separated from development, maintenance and amendment;
 - (d) ensure that an adequate management (audit) trail exists through the computerised system and that such computer audit reviews as the Director may consider necessary are being carried out.
- 16.1.2 The Director of Finance & Business Intelligence 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.
- 16.1.3 The nominated Director with responsibility for Information Technology 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 our Trust that we make publicly available.

16.2 Responsibilities and Duties of Other Directors and Officers in Relation to Computer Systems of a General Application

- 16.2.1 In the case of computer systems which are proposed General Applications (i.e. normally those applications which the majority of Trust's in the Region wish to sponsor jointly) all responsible directors and employees will send to the Director of Finance & Business Intelligence:
- (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.

16.3 Contracts for Computer Services with Other Health Bodies or Outside Agencies

The Director of Finance & Business Intelligence 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.

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

16.4 Risk Assessment

The nominated Director with responsibility for Information Technology shall ensure that risks to the Trust arising from the use of IT 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.

16.5 Requirements for Computer Systems which have an Impact on Corporate Financial Systems

Where computer systems have an impact on corporate financial systems the Director of Finance & Business Intelligence 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) Finance staff have access to such data;
- (d) such computer audit reviews as are considered necessary are being carried out.

17. PATIENTS' PROPERTY

17.1 The 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.

17.2 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 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 patients' property record is obtained as a receipt.
- 17.3 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 in order to maximise the benefits to the patient.
- 17.4 Where Department of Health instructions require the opening of separate accounts for patients' moneys, these shall be opened and operated under arrangements agreed by the Director of Finance & Business Intelligence.
- 17.5 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.
- 17.6 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.
- 17.7 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.

18. FUNDS HELD ON TRUST

18.1 Corporate Trustee

- (1) Standing Order No. 2.8 outlines the Trust's responsibilities as a corporate trustee for the management of funds it holds on trust, along with SFI 4.9.3 that defines the need for compliance with Charities Commission latest guidance and best practice. In this SFI 27, "Charity" means all charitable trusts of which the Trust is corporate trustee.
- (2) The discharge of the Trust's corporate trustee responsibilities are distinct from its responsibilities for exchequer funds and may not necessarily be discharged 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.

The Director of Finance & Business Intelligence shall ensure that each trust

fund within the Charity is managed appropriately with regard to its purpose and to its requirements.

18.2 Accountability to Charity Commission and Secretary of State for Health

- (1) The trustee responsibilities must be discharged separately and full recognition given to the Trust's dual accountabilities to the Charity Commission for charitable funds held on trust within the Charity and to the Secretary of State for all funds held on trust.
- (2) The Schedule of Matters Reserved to the Board and the Scheme of Delegation make clear where decisions regarding the exercise of discretion regarding the disposal and use of the Charity's funds are to be taken and by whom. All Trust Board members and Trust officers must take account of that guidance before taking action.

18.3 Applicability of Standing Financial Instructions to Funds held on Trust

- (1) In so far as it is possible to do so, most of the sections of these Standing Financial Instructions will apply to the management of funds held on trust. (See overlap with SFI No 7.10.2).
- (2) The over-riding principle is that the integrity of each trust fund within the Charity must be maintained and statutory and Trust obligations met. Materiality must be assessed separately from Exchequer activities and funds.

19. ACCEPTANCE OF GIFTS BY STAFF AND LINK TO STANDARDS OF BUSINESS CONDUCT (see overlap with SO No. 6 and SFI No. 10.2.6 (d))

The Director of Finance & Business Intelligence shall ensure that all staff are made aware of the Trust policy on acceptance of gifts and other benefits in kind . This policy follows the guidance contained in the Department of Health circular HSG (93) 5 "Standards of Business Conduct for NHS Staff and is also deemed to be an integral part of these Standing Orders and Standing Financial Instructions (see overlap with SO No. 6).

20. RETENTION OF RECORDS

- 20.1 The Chief Executive shall be responsible for maintaining archives for all records required to be retained in accordance with Department of Health guidelines.
- 20.2 The records held in archives shall be capable of retrieval by authorised persons.
- 20.3 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.

21. RISK MANAGEMENT AND INSURANCE

21.1 Programme of Risk Management

The Chief Executive shall ensure that the Trust has a programme of risk management, in accordance with current Department of Health & Social Care assurance framework requirements, which must be approved by Trust Board and monitored by the Audit Committee.

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 effect
- d) contingency plans to offset the impact of adverse events;
- e) audit arrangements including; Internal Audit, clinical audit, health and safety review;
- f) arrangements to review the Risk Management programme.

The existence, integration and evaluation of the above elements will assist in providing a basis to make a Annual Governance Statement within the Annual Report and Accounts as required by current Department of Health & Social Care guidance.

21.2 Insurance Arrangements with Commercial Insurers

21.2.1 There is a general prohibition on entering into insurance arrangements with commercial insurers. There are, however, **three exceptions** when Trust's may enter into insurance arrangements with commercial insurers. The exceptions are:

- (1) Trust's may enter commercial arrangements for **insuring motor vehicles** owned by the Trust including insuring third party liability arising from their use;
- (2) where the Trust is involved with a consortium in a **Private Finance Initiative contract** and the other consortium members require that commercial insurance arrangements are entered into; and
- (3) where **income generation activities** take place. Income generation activities should normally be insured against all risks using commercial insurance. If the income generation activity is also an activity normally

carried out by the Trust for a NHS purpose the activity may be covered in the risk pool. Confirmation of coverage in the risk pool must be obtained from the NHS Resolution. In any case of doubt concerning a Trust's powers to enter into commercial insurance arrangements the Finance Director should consult the Department of Health.

21.2.2 Arrangements to be followed by the Board in agreeing Insurance cover:

- (1) Where the Trust uses risk pooling schemes administered by the NHS Resolution the Director of Finance & Business Intelligence shall ensure that the arrangements entered into are appropriate and complementary to the risk management programme. The Director of Finance & Business Intelligence shall ensure that documented procedures cover these arrangements.
- (2) All the risk pooling schemes require Scheme members to make some contribution to the settlement of claims (the "deductible"). The Director of Finance & Business Intelligence should ensure documented procedures also cover the management of claims and payments below the deductible in each case.

Annex 1 - Financial Limits

In all cases, the values stated in this annex are those applicable for the whole of the contract period, which may be more than a single year. In the event that an officer is formally acting in a deputy capacity, they shall assume the financial limits set for that budget holder.

Values quoted in this annex in relation to SFI 7.4.3 (tenders), SFI 7.6.1 (quotations) and SFI 7.8 (contracts) are excluding VAT.

Authorisation of Non-Pay Expenditure

Non Pay

Category	£
Officers designated by budget holder	Up to £5,000
Designated budget holder	Up to £25,000
Heads of Service	Up to £50,000
Deputy Director / Deputy Directors	Up to £100,000
Directors	Up to £250,000
Director of Finance & Business Intelligence	Up to £500,000
Chief Executive	Up to £1,000,000
Chair	Up to £1,000,000
Board	Over £1,000,000

SFI 3.3.2 Virement

Virements (i.e. the use of a budget for a different purpose than originally approved) may be actioned as follows:

Designated budget holders	up to	£25,000
Deputy Directors	up to	£50,000
Directors	up to	£100,000
Director of Finance & Business Intelligence	up to	£1,000,000
Chief Executive	up to	£5,000,000
Trust Board	other	

SFI 7.4.3 Tenders

SFI 7.4.3: Exceptions and instances where formal tendering may not need to be applied. Formal tendering not need be applied when the expenditure or income does not exceed the relevant financial threshold for the application of the Regulations. This currently stands at £118,133 as at 1st January 2018 but should be confirmed with the Director of Finance & Business Intelligence as required. The above threshold applies to Part B Services under the Public Contracts Regulations and non Schedule 3 Services under the Regulations; however, the threshold for services covered by the Light Touch Regime is £615,278.

SFI 7.6 Quotations

Under SFI 7.6.1, quotations are required where formal tendering procedures are not adopted

and where the intended expenditure or income exceeds, or is reasonably expected to exceed **£5,000** but not exceed **the relevant financial threshold for application of requirement for competitive tendering or usage of approved framework (£25,000)**.

If, within the limits applicable under SFI 7.6.1, non-competitive quotations are obtained under SFI 7.6.3, the reasons for their acceptance will be documented in a form determined by the Director of Finance & Business Intelligence.

SFI 7.8 Authorisation of Contracts

Providing all the conditions and circumstances set out in these Standing Financial Instructions have been fully complied with, formal authorisation and awarding of a contract may be decided by the following to the value of the contract as follows:

Designated budget holders	up to	£25,000
Deputy Directors	up to	£50,000
Directors	up to	£100,000
Director of Finance & Business Intelligence	up to	£1,000,000
Chief Executive	up to	£5,000,000
Trust Board	other	

The authorisation of contracts of more than the above limits can be by the Trust Board.

Any variation to a contract must also comply with the limits in this annex. Should the contract variation be significant in either duration of the contract, terms or value of the overall contract, the appropriate limit shall be the value of the contract inclusive of the proposed variation.

For the avoidance of doubt, officers having the power to authorise contracts shall also have the power to act on behalf of the Trust in all matters relating to those contracts, including the power to serve notices, including termination notices, in relation to the contracts.

In accordance with SFI 3.5, the SFI 7.8 limits apply to capital expenditure; as such, these shall be the maximum financial limits of delegation by the Chief Executive through the capital panel to which reference is made in SFI 13.1.6.

SFI 7.6.3 Instances where formal competitive tendering or competitive quotation is not required

Tenders or quotations are not required where expenditure is below the lower limit in SFI 7.6.1, i.e. **£5,000**, but procurement will still comply with procurement procedures determined by the Director of Finance & Business Intelligence.

SFI 7.10.1 Disposals

Quotations or tenders are not required for the disposal of items with an estimated sale value of less than £100 and where, in the opinion of two officers, the cost of obtaining competitive quotations (including consideration of internet auction sites) will exceed the estimated sale value.

SFI 7.5.10(a)(iii) In house services

SFI 7.5.10(a)(iii) requires that an evaluation team for any tendering of a service currently provided in house having a likely expenditure of more than £300,000 shall include a non-executive member.

SFI 15 Losses and Special Payments

HM Treasury specifies procedures for the handling of Losses and Special Payments (including compensation payments). Subject to Losses or Special Payments not requiring the approval of the Department of Health & Social Care, the following may be actioned with the approval of the following:

Jointly by the Chief Executive and Director of Finance & Business Intelligence:

- Losses (including the write off of debts) of up to £50,000
- Special Payments (including compensation payments other than those within the remit of the Remuneration and Terms of Service Committee) of up to £50,000

By the Director of Finance & Business Intelligence or Deputy Director of Finance:

- Losses (including the write off of debts) of up to £25,000
- Special Payments (including compensation payments other than those within the remit of the Remuneration and Terms of Service Committee) of up to £5,000

Legal advice should be sought in relation to any novel, contentious or repercussive cases.

Annex 2 - Monitoring Template

Minimum requirement to be monitored	Process for monitoring e.g. audit	Responsible individuals/ group/ committee	Frequency of monitoring/audit	Responsible individuals/ group/ committee (multidisciplinary) for review of results	Responsible individuals/ group/ committee for development of action plan	Responsible individuals/ group/ committee for monitoring of action plan
Regulation of Trust proceedings and business	<p>Annual review of policy document.</p> <p>On-going review and appraisal of national guidance and legislation</p>	<p>Director of Finance & Business Intelligence</p> <p>Audit Committee</p>	<p>Annually at the Audit Committee</p> <p>Monthly at Trust Board by Exception</p>	<p>Audit Committee</p> <p>Trust Board</p>	<p>Director of Finance & Business Intelligence</p> <p>Audit Committee</p>	<p>Audit Committee</p> <p>Trust Board</p>

Equality Analysis

Section 1 – to be completed for all policies

A.	Briefly give an outline of the key objectives of the policy; what it's intended outcome is and who the intended beneficiaries are expected to be	Provide the Trust with instruction and advice for the regulation of the conduct of its members and officers, with particular reference to all financial matters.		
B.	Does the policy have an impact on patients, carers or staff, or the wider community that we have links with? Please give details	This policy applies to the conduct of all members of the Trust		
C.	Is there is any evidence that the policy\service relates to an area with known inequalities? Please give details	None		
D.	Will/Does the implementation of the policy\service result in different impacts for protected characteristics?			
		Yes	No	
	Disability		X	
	Sexual Orientation		X	
	Sex		X	
	Gender Reassignment		X	
	Race		X	
	Marriage/Civil Partnership		X	
	Maternity/Pregnancy		X	
	Age		X	
	Religion or Belief		X	
	Carers		X	
	If you have answered 'Yes' to any of the questions then you are required to carry out a full Equality Analysis which should be approved by the Equality and Human Rights Lead – please go to section 2			
The above named policy has been considered and does not require a full equality analysis				
Equality Analysis Carried out by:		Simon Burrows		
Date:		30/09/2018		