

## Council of Governors: Summary Sheet

**Title of Paper:** Amendments to the Trust's Constitution

**Presented By:** Jayne Brown OBE, Trust Chair

**Action Required:**

<b>For Information</b>	<input type="checkbox"/>	<b>For Ratification</b>	<input checked="" type="checkbox"/>	<b>For a decision</b>	<input type="checkbox"/>
<b>For Feedback</b>	<input type="checkbox"/>	<b>Vote required</b>	<input type="checkbox"/>	<b>For Receipt</b>	<input type="checkbox"/>

To which duty does this refer:

Holding non-executive directors individually and collectively to account for the performance of the Board	
Appointment, removal and deciding the terms of office of the Chair and non-executive directors	
Determining the remuneration of the Chair and non-executive directors	
Appointing or removing the Trust's auditor	
Approving or not the appointment of the Trust's chief executive	
Receiving the annual report and accounts and Auditor's report	
Representing the interests of members and the public	
Approving or not increases to non-NHS income of more than 5% of total income	
Approving or not significant transactions including acquisitions, mergers, separations and dissolutions	
Jointly approving changes to the Trust's constitution with the Board	X
Expressing a view on the Trust's operational (forward) plans	
Consideration on the use of income from the provision of goods and services from sources other than the NHS in England	
Monitoring the activities of the Trust to ensure that they are being conducted in a manner consistent with its terms of authorisation and the constitution	
Monitoring the Trust's performance against its targets and strategic aims	

### How does this item support the functioning of the Council of Governors?

Under paragraph 45 of the constitution any amendments may only be applied if more than half of governors present and voting approve them and more than half of members of the board of directors at its meet vote to approve them.

**Author of Report:** Gabriel Recalde

**Designation:** Head of Financial Accounts

**Date:** 4<sup>th</sup> December 2019

## Council of Governors Summary Report

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**Date:** 12 December 2019

**Subject:** Amendments to the Trust’s Standing Orders, Reservation & Delegation of Powers, incorporated the Scheme of Delegation & Standing Financial Instructions proposed changes 2019/20

**From:** James Sabin – Deputy Director of Finance

**Authors:** Gabriel Recalde – Head of Financial Accounts

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### 1. Purpose

<i>For approval</i>	<i>For a collective decision</i>	<i>To report progress</i>	<i>To seek input from</i>	<i>For information/assurance</i>	<i>Other (Please state below)</i>
X					
Approval must be sought by means of a vote of governors present.					

### 2. Summary

The purpose of this briefing paper is to inform the Council of Governors of amendments to the Standing Orders for the Board of Directors which includes Appendix A – Invitation to Tender contained within the trust’s constitution. Changes have been made as part of the periodic review of the standing orders as well as the trust’s scheme of delegation and standing financial instructions. Changes have been made to reflect operational requirements in line updated NHS guidance.

A summary of all changes are detailed in Appendix A.

### 3. Next Steps

Following approval by the Council of Governors, the amendments will be presented to the Board of Directors for its approval, after which the changes will be enacted and the revised constitution uploaded to the Trust’s website. NHS Improvement will also be informed of the changes.

### 4. Required Actions

The Council of Governors is requested to vote on the proposed changes to the Standing Orders in line with the requirements of the cited in paragraph 45 of the trust’s constitution.

### 5. Monitoring Arrangements

Monitoring of this process is carried out through the annual accounts review and approval process by both the Audit and Risk Committee and the Board of Directors as part of the Draft and final submission of the Annual Report and Accounts process.

## 6. Contact Details

For further information, please contact:

- James Sabin, Deputy Director of Finance  
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APPENDIX A – Details of proposed changes

Current version	Proposed changes (in red)
<p>9.3 The Trust shall have due regard to the requirements of the Department of Health "Capital Investment Manual" and "Estatecode" and will comply with the guidance "Risk Evaluation for Investment Decisions by NHS Foundation Trusts" and such other guidance as may be issued by the Independent Regulator from time to time in respect of capital investment and estate and property transactions. In the case of management consultancy contracts the Trust shall have due regard to, as far as is practicable, with Department of Health guidance "The Procurement and Management of Consultants within the NHS".</p>	<p>9.3 The Trust shall comply as far as is practicable with the requirements of the Department of Health <b>and Social Care "Capital regime, investment and property business case approval guidance for NHS providers"</b> and <b>"The efficient management of healthcare estates and facilities (HBN 00-08)"</b> and shall consider the guidance <b>"NHS Providers, guidance on transactions for NHS Foundation Trusts (Monitor 2015)"</b> and such other guidance as may be issued by the Independent Regulator from time to time in respect of capital investment and estate and property transactions. In the case of management consultancy contracts the Trust shall comply as far as is practicable with Department of Health <b>and Social Care</b> guidance "The Procurement and Management of Consultants within the NHS"</p>
<p>9.6.1 the estimated expenditure or income does not, or is not reasonably expected to, exceed £30,000 (excluding VAT) in total, (this figure to be reviewed annually)</p>	<p>9.6.1 the estimated expenditure or income does not, or is not reasonably expected to, exceed £30,000 (<b>including</b> VAT) in total, (this figure to be reviewed annually)</p>
<p>9.6.7 where provided for in the Capital Investment Manual,</p>	<p>9.6.7 where provided for in the <b>Capital regime, investment and property business case approval guidance for NHS providers,</b></p>
<p>9.11.3 any relevant directions including the Capital Investment Manual, Estatecode and guidance on the Procurement and Management of Consultants;</p>	<p>9.11.3 any relevant directions including the <b>Capital regime, investment and property business case approval guidance for NHS, The efficient management of healthcare estates and facilities (HBN 00-08)</b> and guidance on the Procurement and Management of Consultants;</p>
<p>9.12 Quotations - are required where formal tendering procedures are waived under Standing Order 9.5, 9.6.1 or 9.6.3 and where the intended expenditure or income exceeds, or is reasonably expected to exceed £10,000.</p>	<p>9.12 Quotations - are required where formal tendering procedures are waived under Standing Order 9.5, 9.6.1 or 9.6.3 and where the intended expenditure or income exceeds, or is reasonably expected to exceed £10,000. (<b>including VAT</b>)</p>
<p>9.19 Trust Procurement Procedures – Where tenders or quotations are not required, because expenditure is below £10,000, the Trust shall procure goods and services in accordance with</p>	<p>9.19 Trust Procurement Procedures – Where tenders or quotations are not required, because expenditure is below £10,000, (<b>including VAT</b>) the Trust shall procure goods and services in accordance</p>

Current version	Proposed changes (in red)
procurement procedures approved by the Trust.	with procurement procedures approved by the Trust.
<p><b>10 Disposals</b> 10.1.2 obsolete or condemned articles and stores, which may be disposed of in accordance with the supplies policy of the Trust;</p>	<p><b>10 Disposals</b> 10.1.2 obsolete or condemned articles and stores, which may be disposed of in accordance with the <b>disposal</b> policy of the Trust ;</p>
<p><b>11 In-house services</b> 11.1.4 Evaluation team, comprising normally a specialist Officer, a supplies Officer and a Director of Finance representative. For services having a likely annual expenditure exceeding £500,000, a Non-Executive Director should be a Director of the evaluation team.</p>	<p><b>11 In-house services</b> 11.1.4 Evaluation team, comprising normally a specialist Officer, a <b>Procurement</b> Officer and a Director of Finance representative. For services having a likely annual expenditure exceeding £500,000, <b>(including VAT)</b> a Non-Executive Director should be a Director of the evaluation team.</p>
<b>Appendix A – Invitation to tender</b>	
<p>1.1 All invitations to tender on a formal competitive basis shall state that no tender will be considered for acceptance unless submitted in either:</p> <p>1.1.1 a plain, sealed package bearing a pre-printed label supplied by the Trust (or bearing the word `Tender' followed by the subject to which it relates and the latest date and time for the receipt of such tender); or</p> <p>1.1.2 (in a special envelope supplied by the Trust to prospective tenderers and the tender envelopes/packages shall not bear any names or marks indicating the sender.</p> <p>1.1.3 submitted through an appropriate electronic tender process as agreed with the Executive Director of Finance.</p>	<p>1.1 All invitations to tender on a formal competitive basis <b>must be submitted via the In-Tend online portal.</b></p> <p>Removed 1.1.1 to 1.1.3 as no longer applicable.</p>
<p>6. Authorisation of Tenders and Competitive Quotations: Providing all the conditions and circumstances set out in the Standing Financial Instructions have been fully complied with, formal authorisation and awarding of a contract may be decided by the staff and the contract signed, to the value of the contract in accordance with the Scheme of Delegation (see Appendix A)</p> <ul style="list-style-type: none"> <li>• Designated Budget Holders up to £4,999</li> <li>• Authorised Budget Holders Managers (per SoD) up to £9,999</li> </ul>	<p>6. Authorisation of Tenders and Competitive Quotations: Providing all the conditions and circumstances set out in the Standing Financial Instructions have been fully complied with, formal authorisation and awarding of a contract may be decided by the staff and the contract signed, to the value of the contract in accordance with the Scheme of Delegation (see Appendix A)</p> <ul style="list-style-type: none"> <li>• Designated Budget Holders up to £4,999</li> <li>• Authorised Budget Holders Managers (per SoD) up to £9,999</li> </ul>

Current version	Proposed changes (in red)
<ul style="list-style-type: none"> <li>• Head of Contracting/Procurement up to £9,999 (i.e. as per Scheme of Delegation)</li> <li>• Deputy Director of Finance up to £99,999</li> <li>• Chief Executive, Deputy Chief Executive, Director of Finance, with BPG approval up to £249,999</li> <li>• 2 from Chief Executive, Deputy Chief Executive or Director of Finance with EDG Approval up to £499,999</li> <li>• 2 from Chief Executive, Deputy Chief Executive or Director of Finance with FIC Approval up to £1m</li> <li>• 2 from Chief Executive, Deputy Chief Executive or Director of Finance with Trust Board Approval over £1m</li> </ul> <p>These levels of authorisation may be varied or changed and need to be read in conjunction with the Trust Board's Scheme of Delegation.</p>	<ul style="list-style-type: none"> <li>• Head of Contracting/Procurement up to £9,999 (i.e. as per Scheme of Delegation)</li> <li>• Deputy Director of Finance up to £99,999</li> <li>• Chief Executive, Deputy Chief Executive, Director of Finance, with BPG approval up to £249,999</li> <li>• 2 from Chief Executive, Deputy Chief Executive or Director of Finance with EDG Approval up to <b>£1m</b></li> <li>• 2 from Chief Executive, Deputy Chief Executive or Director of Finance with FIPC Approval up to <b>£2m</b></li> <li>• 2 from Chief Executive, Deputy Chief Executive or Director of Finance with Trust Board Approval over <b>£2m</b></li> </ul> <p>These levels of authorisation may be varied or changed and need to be read in conjunction with the Trust Board's Scheme of Delegation.</p>

Note other minor changes to Committee names.