

# NORTH WEST WALES NHS TRUST

## STANDING ORDERS

Rev	Date	Purpose of Issue/Description of Change	Planned Review
A	Apr 1999	Initial Issue	
B	May 2002	Incorporate new legislation/guidance	
C	June 2004	Incorporate changes to structure/guidance	June 2005
D	Sept 2005	Re-approved by Trust Board pending new Model S.O.s	Feb 2006
E	Sept 2006	Updated to reflect issue of several Welsh Health Circulars and implementation of revised stand alone Scheme of Reservation and Delegation	April 2007
F	June 2007	Gap identified in the process for ensuring value for money and the selection of suppliers by quotation.	June 2008
G	May 2008	Amended to reflect joint meeting between Clinical Governance and Audit Committee and reflect role of Associate Directors	April 2009
H	Sept 2008	Amended to reflect Handbook for Trade Union Representatives at Trust Boards, WHC (2008) 048, AGM administrative arrangements, re-naming of Endowment Committee, FoI Publication Scheme, SAS 610 superseded, WRMS superseded, and minor corrections	
I	Jan 2009	Amended to reflect Joint Audit & Clinical Governance Committee terms of reference, revised Remuneration Committee terms of reference, and minor corrections	June 2009
Author		Responsible Officer	Approved by
D Harries L James C Barton		Executive Director of Operations & Service Improvement	Trust Board
			Date
			July 2007

### PROPRIETARY INFORMATION

This document contains proprietary information belonging to the North West Wales NHS Trust. Do not produce all or any part of this document without written permission from the Trust.

## FOREWORD

These standing orders of the North West Wales NHS Trust have been prepared in compliance with:

- (a) The National Health Services Trusts (Membership and Procedure) Regulations 1990. (Statutory Instrument 1990 – No 2024 – as amended)

and in accordance with

- (b) The relevant legislation and specifically:
- ◆ The National Health Services Act 1977 (as amended)
  - ◆ The Mental Health Act 1983 (as amended)
  - ◆ The National Health Services and Community Care Act 1990 (as amended)
  - ◆ The Health Act 1999

The requirements of the regulations and the provisions of the legislation are reflected, as appropriate, in the Standing Orders.

The Standing Orders also reflect:

- ◆ The guidance on “Standards of Business Conduct for NHS Staff” issued under DGM (93)84.
- ◆ The requirements of The National Health Services Trusts (Public Meetings) Regulations 1991 (Statutory Instrument 1991 No 482 – as amended).
- ◆ The Code of Conduct and Accountability for members and Directors of NHS Authorities and NHS Trusts issued under DGM (95)5.
- ◆ Corporate Governance Guidance Framework for NHS Wales issued in 1998.
- ◆ Controls Assurance Requirements - WHC (2000)13 and WHC (2000)57.
- ◆ The NHS Audit Committee Handbook, October 2000.
- ◆ Working in Partnership at Trust Boards: A Handbook for Trade Union Representatives at Trust Boards

The Standing Orders, Schedule of Delegation and Standing Financial Instructions provide a comprehensive regulatory framework for the business conduct of the Trust. They fulfil the dual role of protecting the Trust’s interests and protecting staff from any possible accusation that they have acted less than properly.

All Executive and Non-Executive Directors, and all members of staff, should be aware of the existence of these documents and, where necessary, be familiar with the detailed provisions

# North West Wales NHS Trust

## Standing Orders

<u>CONTENTS</u>		<u>Page</u>
1	INTRODUCTION	1
	1.1 Statutory Framework	1
	1.2 NHS Framework	2
	1.3 Interpretation	2
2	MEMBERSHIP	4
	2.1 Trust Board Members	4
	2.2 Appointment of Executive Directors	4
	2.3 Tenure of Executive Directors	4
	2.4 Appointment of Non-Executive Directors	5
	2.5 Accountable Officer	5
	2.6 Appointment of Associate Directors	6
3	MEETINGS OF THE TRUST BOARD	6
	3.1 Calling of Meetings	6
	3.2 Notice of Meetings	6
	3.3 Agenda for Meetings	7
	3.4 Appointment of Vice Chairman	7
	3.5 Chairman of Meeting	7
	3.6 Notice of Motion	8
	3.7 Motions	8
	3.8 Motion to Rescind a Resolution	8
	3.9 Chairman's Ruling	9
	3.10 Voting	9
	3.11 Minutes	10
	3.12 Quorum	10
	3.13 Admission of the Public to Trust Board Meetings	10
	3.14 Annual General Meeting	12
4	INTEREST OF DIRECTORS IN CONTRACTS AND OTHER MATTERS	13
	4.1 Declaration of Interests	13
	4.2 Register of Interests	14
	4.3 Disability of Directors in Proceeding on Account of Pecuniary Interest	14
5	APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES	16

*Continued overleaf*

<u>CONTENTS</u>		<u>Page</u>
6	APPOINTMENT OF SENIOR OFFICERS	18
6.1	Methods of Appointment	18
6.2	Canvassing of, and Recommendations by, Directors	18
7	INTEREST OF OFFICERS IN CONTRACTS	18
8	THE CUSTODY OF THE COMMON SEAL AND SEALING OF DOCUMENTS	19
9	TENDERING AND CONTRACT PROCEDURES	19
9.1	Duty to Comply with SO's	19
9.2	EU Directive Governing Public Procurement	19
9.3	Formal Competitive Tendering	20
9.4	Competitive Quotations	21
9.5	Non-Competitive Quotations	22
9.6	Where Tendering or Competitive Quotation is Not Required	22
9.7	Private Finance Initiative	22
9.8	Contracts	23
9.9	Personnel and Agency or Temporary Staff Contracts	23
9.10	Healthcare Services Contracts	23
9.11	Cancellation of Contracts	23
9.12	Determination of Contracts for Failure to Deliver Goods or Materials	24
10	MISCELLANEOUS	24
10.1	Suspension of Standing Orders	24
10.2	Variation and Amendment of Standing Orders	25
10.3	Standing Orders to be given to Directors	25
10.4	Signature of Documents	25
10.5	Standing Financial Instructions	25
10.6	Emergency Powers	25
10.7	Proceedings of the Trust	25
10.8	Exclusion of Persons from Meetings of the Trust Board	25
10.9	Amendment of Standing Orders	25
10.10	Documents Having the Standing of Standing Orders	25
Appendix 1	Scheme of Administrative Arrangements and Functions of Committees of the Board	
Appendix 2	Tendering Procedure	

## INTRODUCTION

### 1.1 Statutory Framework

- 1.1.1 The North West Wales NHS Trust (the Trust) is a body corporate established under the North West Wales National Health Service Trust (Establishment) Order 1998.
- 1.1.2 The National Health Service Act 1977 provides the legislative base for the NHS in Wales. This Act has been amended by the National Health Service and Community Care Act 1990 and the Health Act 1999
- 1.1.3 The statutory functions conferred on the Trust are set out in the NHS and Community Care Act 1990 and in the Trust's Establishment Order. The Trust's function is to manage Ysbyty Gwynedd, Bryn-y-Neuadd Hospital, Llandudno General Hospital and associated hospitals and premises and there to provide and manage hospital accommodation and services, and community health services.
- 1.1.4 As a body corporate, the Trust has specific powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commissioners for those funds deemed to be charitable as well as to the Minister for Health and Social Services. The Trust also has a common law duty as a bailee for patients' property held by the Trust on behalf of patients.
- 1.1.5 The Trust is required under regulation 19 (2) of the National Health Service Trust (Membership and Procedure) Regulations 1990 to adopt Standing Orders for the regulation of its meetings and business. The Standing Orders reflect the guidance outlined in the Code of Conduct and Accountability for National Health Service Boards issued to the service in 1995.
- 1.1.6 Standing Orders provide a formal framework for the conduct of the Trust's business but it is not their function to define the corporate nature of the Trust Board membership, which requires directors to participate objectively, and to have corporate and collective responsibility for its decisions and policies.

## 1.2 NHS Framework

- 1.2.1 In addition to statutory requirements the Minister for Health and Social Services issues further requirements and guidance. Much of the guidance that has been provided to the NHS in Wales by the former Welsh Office Health Department is consolidated and reinforced within the Corporate Governance Framework issued to the service in 1998.
- 1.2.2 The Trust must adopt Standing Financial Instructions as an integral part of Standing Orders setting out the responsibilities of individuals.
- 1.2.3 The Code of Conduct and Accountability for Trust Boards requires that, among other things, Boards draw up a schedule of decisions reserved to the Board, and ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior executives (a scheme of delegation).
- 1.2.4 The Code also requires the establishment of audit and remuneration committees with formally agreed terms of references.
- 1.2.5 Further, the Code makes various requirements concerning possible conflicts of interest of Board directors.
- 1.2.6 The Code of Practice and Openness in the NHS sets out the requirements for public access to information on the NHS.

## 1.3 Interpretation

- 1.3.1 Save as permitted by law, at any meeting the Chairman of the Trust will be the final authority on the interpretation of Standing Orders (on which he or she should be advised by the Chief Executive).
- 1.3.2 In these Standing Orders, and unless otherwise stated:  
Accountable Officer means the Officer responsible and accountable for funds entrusted to the Trust. He or she shall be responsible for ensuring the proper stewardship of public funds and assets. For the North West Wales NHS Trust it will be the Chief Executive.

Board means the Chairman and non-executive directors (appointed by the Minister for Health and Social Services), and the executive directors appointed by the relevant committee of the Trust.

Chairman is the person appointed by the Minister for Health and Social Services to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole.

Chief Executive means the chief officer of the Trust.

Committee means a committee appointed by the Trust.

Committee members means the persons formally appointed by the Trust to sit on, or to chair, specific committees.

“CONCODE” means guidance to health service bodies on the procurement of contracts for building and engineering in Part I and on the commissioning of consultants in Part II.

“ESTATECODE” and “ESTMANCODE” means guidance to health service bodies on estate management.

“Executive Director” means a director who is employed by the Trust, as defined in the NHS and Community Care Act 1990 (para 5)

“Finance Director” means the chief finance officer of the Trust.

“Mental Health Act Managers” are defined under the Mental Health Act 1983 section 23 and 145 (as amended).

Motion means a formal proposition to be discussed and voted on during the course of a meeting.

Nominated Officer means an officer charged with the responsibility for discharging specific tasks within Standing Orders and Standing Financial Instructions.

“Non-Executive Director” means a director who is not employed by the Trust as defined in the NHS and Community Care Act 1990 (para 5)

Officer means an employee of the Trust.

“Private Finance Initiative” means any scheme financed by a third party under, which the Trust derives benefit in financial and risk transfer terms.

SO's means Standing Orders

SFI's means Standing Financial Instructions.

Trust means the North West Wales NHS Trust.

“Working day” means clear working days being Monday to Friday inclusive, excluding bank and public holidays.

## 2. MEMBERSHIP

### 2.1 Trust Board Members

2.1.1 In accordance with the Establishment Order the composition of the Board will be:

- ◆ Chairman
- ◆ seven non-executive directors
- ◆ five executive directors

2.1.2 The Chairman and non-executive directors of the Trust are appointed by the Minister for Health and Social Services. The regulations governing their period of tenure of office, and the termination or suspension of office, are contained in the Membership and Procedure Regulations. (See SO 2.4).

2.1.3 The executive directors are appointed by an Appointments Committee in accordance with SO 2.2

2.1.4 A minimum of two, and maximum of three, Trade Union Representatives will be appointed to the Trust Board, without voting rights, and with election and deputising arrangements in accordance with section 1 of the Handbook for Trade Union Representatives at Trust Boards

### 2.2 Appointment of Executive Directors

2.2.1 The executive directors of the Trust will be the:

- ◆ Chief Executive
- ◆ Director of Finance
- ◆ Medical Director
- ◆ Nursing Director
- ◆ 5<sup>th</sup> Director

2.2.2 An Appointments Committee, consisting of the Chairman and a minimum of two non-executive directors will appoint the Chief Executive.

2.2.3 The Committee appointed under SO 2.2.2, to include the Chief Executive, will appoint the other executive directors.

2.2.4 Where more than one person is appointed jointly to a post in the Trust, which qualifies the holder for executive directorship or in relation to which an executive director is to be appointed, those persons shall be appointed as an executive director jointly, and shall count for the purpose of standing order 2.2.1 as one person.

### 2.3 Tenure of Executive Directors

2.3.1 The term of office of the other executive directors will be as set out in their letter of appointment as directors.

2.3.2 If any executive director is suspended from, or ceases to hold a post with the Trust, he or she will automatically be suspended from, or ceases holding, a director's post.

## 2.4 Appointment of Non-Executive Directors

2.4.1 The Chairman and non-executive directors will be appointed for a period as the Minister for Health and Social Services may specify on making the appointment.

2.4.2 The Chairman, or a non-executive director, of the Trust may resign at any time during the period for which he or she was appointed by giving notice in writing to the Minister for Health and Social Services to this effect.

2.4.3 If the Minister for Health and Social Services considers that it is not in the interests of the health service that a person who is appointed as Chairman or non-executive director of the Trust should continue to hold that office, he or she may terminate that appointment

2.4.4 A person shall be disqualified for appointment as Chairman, or non-executive director, of the Trust in accordance with the terms of regulations 11 and 12 of the National Health Service Trusts (Membership and Procedure) Regulations 1990.

## 2.5 Accountable Officer

2.5.1 The Chief Executive is the Accountable Officer for the Trust. The responsibilities of the Accountable Officer are set out in the Accountable Officer Memorandum, issued under DGM (95) 86. The Accountable Officer will also act in accordance with the Financial Memorandum and any guidance issued by the Welsh Assembly Government and, where appropriate, the Treasury.

2.5.2 As Accountable Officer, the Chief Executive is personally accountable to the Chief Executive of NHS Wales, Welsh Assembly Government for the proper stewardship of public funds and for the day-to-day operations and management of the Trust. The Chief Executive is also accountable to the Board for the management of its affairs and the implementation of its policies.

2.5.3 The Chief Executive, together with the Director of Finance, is responsible for ensuring that the accounts, which are presented to the Board, are prepared in accordance with the format directed by the Minister for Health and Social Services and the Treasury. The Accountable Officer will sign these accounts after approval by the Board.

2.5.4 The Chief Executive is responsible for ensuring the continuing financial viability of the Trust and for achieving value for money.

2.5.5 The Chief Executive will ensure that financial considerations are taken fully into account in the Board's decision making and, if necessary, take the action set out in paragraphs 17-20 of the Accountable Officer Memorandum which contains procedures for informing the Board, and in the last instance the auditors and the Director of the NHS Directorate, of any course of action which would be improper or give exceptionally poor value for money.

2.5.6 The Chief Executive may delegate the administration of the duties as Accountable Officer, but may not delegate or assign absolutely any of the responsibilities set out in the Accountable Officer Memorandum or the Financial Memorandum.

## 2.6 Appointment of Associate Directors

2.6.1 The Director of Estates and Facilities and the Director of Human Resources shall be Associate Directors of the Trust.

2.6.2 The terms of office of Associate Directors will be set out in their contracts and letters of appointment.

2.6.3 If any Associate Director is suspended from, or ceases to hold a post within the Trust that Director will automatically be suspended from or cease holding office as an Associate Director of the Trust.

## 3. MEETINGS OF THE TRUST BOARD

### 3.1 Calling of Meetings

3.1.1 The regular, ordinary meetings of the Board will be held at such times and places as the Board determines.

3.1.2 The Chairman may call a meeting of the Board at any time.

3.1.3 If the Chairman refuses to call a meeting after receiving a request for that purpose, signed by at least one third of the directors, or if, without so refusing, he does not then call a meeting within seven days after receiving the request, the one third or more members may immediately call a meeting.

### 3.2 Notice of Meetings

3.2.1 Before each meeting of the Board, a notice of the meeting detailing the business proposed to be transacted at it, and signed by the Chairman or by an officer of the Trust authorised by the Chairman to sign on his behalf, will be delivered to every director or sent by post to their usual address, so as to be available to them at least three clear working days before the meeting.

3.2.2 The notice will also be displayed at the Trust Headquarters at least three clear-working days before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened.

3.2.3 Lack of service of the notice on any director will not affect the validity of the meeting.

3.2.4 In the case of a meeting called by the directors in default of the Chairman, the notice will be signed by those directors and no business will be transacted at the meeting other than that specified in the notice. Failure to serve such a notice on more than three directors of the Trust will invalidate the meeting. A notice will be presumed to have been served at the time at which the notice would be delivered in the ordinary course of the post.

### 3.3 Agenda for Meetings

3.3.1 The Board may determine that certain matters will appear on every agenda for a meeting of the Board and will be addressed prior to any other business being conducted.

3.3.2 A director who wishes a matter to be included on an agenda will make his or her request in writing to the Chairman at least ten days before the meeting, subject to SO 3.2.1. Requests made less than ten days before a meeting may be included on the agenda at the discretion of the Chairman.

### 3.4 Appointment of Vice-Chairman

3.4.1 The directors of the Trust may appoint a non-executive director from amongst them to be Vice-Chairman for such a period, not exceeding the remainder of his or her term as a non-executive director of the Trust, as they may specify on appointing him or her.

3.4.2 Any non-executive director so elected may resign at any time from the office of Vice-Chairman by giving notice in writing to the Chairman. The directors of the Trust may then appoint another non-executive director as Vice-Chairman in accordance with paragraph 3.4.1

3.4.3 Where the Chairman of the Trust has died, or has otherwise ceased to hold office, or where he or she has been unable to perform his or her duties as Chairman owing to illness, absence from Wales or any other cause, references to the Chairman in these SO's will, so long as there is no Chairman able to perform his or her duties, be taken to include references to the Vice-Chairman.

### 3.5 Chairman of Meeting

3.5.1 At any meeting of the Board the Chairman, if present, will preside failing which the Vice-Chairman will preside.

3.5.2 If the Chairman and Vice-Chairman are absent, a non-executive director, chosen by the directors present, will preside over the meeting.

3.5.3 If the Chairman is absent from a meeting temporarily on the grounds of a declared conflict of interest the Vice-Chairman, if present, will preside. If the Chairman and Vice-Chairman are absent, or are disqualified from participating, a non-executive director chosen by the directors present will preside.

### 3.6 Notice of Motion

3.6.1 Subject to the provision of SO 3.9, a director wishing to move a motion will send a notice thereof at least ten clear days before the meeting to the Chairman, who will insert in the agenda for the meeting all notices so received that are in order. This SO will not prevent any motion being withdrawn or moved without notice on any business included on the agenda for the meeting (see SO 3.8 below).

### 3.7 Motions

3.7.1 No motion in any form will be considered unless seconded.

3.7.2 The mover of a motion will have a right of reply at the close of any discussion on the motion or any amendment thereto.

3.7.3 When a motion is under discussion, or immediately prior to discussion, it will be open to a director to move:

- ◆ an amendment to the motion
- ◆ the adjournment of the discussion or the meeting
- ◆ that the meeting proceed to the next business
- ◆ the appointment of an ad hoc committee to deal with a specific item or business
- ◆ that the motion now be put

3.7.4 A director will keep to the question under discussion or to a question of order. No speech will exceed five minutes except by consent of the Chairman, save that the proposer of a motion speaks for ten minutes.

3.7.5 A director will not speak more than once on any one motion or amendment except in the exercise of the right to reply, or on a point of order, or by way of personal explanation, or to move a procedural motion.

3.7.6 No amendment to the motion will be admitted if, in the opinion of the Chairman of the meeting, the amendment negates the substance of the motion.

3.7.7 A motion or amendment once moved and seconded may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Chairman.

### 3.8 Motion to Rescind a Resolution

3.8.1 Notice of a motion to amend or rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months will bear the signature of at least one third of the directors. When the Board has disposed of any such motion it will not be competent for any director, other than the Chairman, to propose a motion to the same effect within six months.

### 3.9 Chairman's Ruling

3.9.1 The decision of the Chairman of the meeting on questions of order, relevancy or regularity (including procedures on handling motions) and his or her interpretation of the Standing Orders will be final. In this interpretation he or she will be advised by the Chief Executive, and in the case of Standing Financial Instructions, by the Director of Finance.

### 3.10 Voting

3.10.1 Every question at a meeting will be determined by a majority of the votes of the Chairman, Non-Executive and Executive directors present and voting on the question and, in the case of the number of votes for and against the motion being equal, the person presiding will have a second, casting vote.

3.10.2 All questions put to the vote will, at the discretion of the Chairman, be determined by oral expression or by a show of hands. A paper ballot may also be used if the majority of the members present so request.

3.10.3 Any request for a vote to be taken on an issue will only be accepted if both proposed and seconded by different directors. Amendments to votes must also be proposed and seconded in the same way. Voting will take place on the amendment first, and then on the original proposal.

3.10.4 If at least one-third of the directors present so request, the voting (other than by paper ballot) on any question will be recorded to show how each director present voted or abstained.

3.10.5 If a director so requests, his or her vote (other than by paper ballot) will be recorded by name.

3.10.6 Under no circumstances may an absent director vote by proxy. Absence is defined as being absent at the time of the vote.

3.10.7 An officer who has been appointed formally to the Board to act up for an executive director during a period of incapacity or temporarily to fill an executive director vacancy, will be entitled to exercise the voting rights of the executive director.

3.10.8 An officer attending the Board to represent an executive director during a period of incapacity or temporary absence without formal acting up status will not exercise the voting rights of the executive director. An officer's status when attending a meeting of the Board will be recorded in the minutes.

### 3.11 Minutes

3.11.1 The names of the directors present at each meeting of the Board will be recorded in the minutes

3.11.2 The minutes of the proceedings of the Board will be drawn up and submitted to the next meeting for approval, where the person presiding will sign them.

3.11.3 No discussion will take place upon the minutes except upon their accuracy, any matters arising or where the Chairman considers discussion appropriate. Any amendment to the minutes will be agreed and recorded at the next meeting.

3.11.4 Minutes will be circulated in accordance with directors' wishes. Where providing a record of a public meeting the minutes will be available to the public.

### 3.12 Quorum

3.12.1 No business will be transacted at a meeting of the Board, unless at least five directors are present, including, on or after the operational date of the Trust, at least two executive directors and three non-executive directors.

3.12.2 An officer in attendance for an executive director but without formal acting up status may not count towards the quorum.

3.12.3 If a director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest (see SO 4) he or she will no longer be counted towards the quorum. If a quorum is then not available for the discussion and/or passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position will be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

3.12.4 The above requirement for at least two executive directors to form part of the quorum will not apply where the executive directors are excluded from a meeting (for example, when the Board considers the recommendations of the Remuneration Committee).

### 3.13 Admission of the Public to Trust Board Meetings

3.13.1 Meetings of the Board will be open to the public, unless members, by resolution beforehand or at any time at a Board meeting, go into Committee, at which point the proceedings in Committee will be treated as if they were proceedings of the Board.

3.13.2 The public may be excluded from any part of a meeting upon the Board resolving as follows:

*“That representatives of the press and other members of the public be excluded from the remainder of this meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest” (Section 1 (2) Public Bodies (Admission to Meetings) Act 1960)*

- 3.13.3 Before each meeting of the Board a public notice of the time and place of the meeting will be displayed at the Headquarters of the Trust at least three clear working days before the meeting or, if the meeting is convened at short notice, then at the time it is convened.
- 3.13.4 A public notice of the time and place of each Board meeting will also be displayed in the local press, as determined by the Trust, at least three clear working days before the meeting.
- 3.13.5 On request to the office of the Trust’s Corporate Communications Manager or Board Secretary, members of the press and other interested parties, will be directed to the Trust’s web site for access to a copy of the agenda and any reports or associated papers approved for public issue. This will be stated in both the press notification and the notice at the Trust headquarters.
- 3.13.6 On request to the office of the Trust’s Corporate Communications Manager, or Board Secretary, a copy of the agenda and any reports or associated papers approved for public issue, will be supplied to members of the public at the meeting of the Board provided that two working days notice are given. This will be stated in both the press notification and the notice at the Trust headquarters.
- 3.13.7 Simultaneous translation facilities, from Welsh to English, will be provided at all public Board meetings.
- 3.13.8 Members of the public have no right to speak during a Board meeting. The Chairman may invite comments from representatives of the Community Health Councils and staff representatives on any item under discussion.
- 3.13.9 With prior agreement of the Chairman, members of the general public may be allowed to make comments when an item of particular public interest is under discussion.
- 3.13.10 As far as is practicable, accredited representatives of newspapers or news agencies, attending for the purpose of reporting the proceedings for those newspapers and agencies, will be afforded reasonable facilities for taking their report and, unless the public meeting is held in premises not belonging to the Trust or not on the telephone lines, for telephoning the report at their own expense.
- 3.13.11 Nothing in these SO’s will require the Board to allow members of the public or representatives of the press to record proceedings in any matter whatsoever, other than writing, or to make any oral report of proceedings as they take place.

3.13.12 The above provisions (SO's 3.13.1 to 3.13.9) are without prejudice to the Trust's power of exclusion to suppress or prevent disorderly conduct or other misbehaviour by an individual(s) at a meeting upon the Chairman resolving as follows:

*"That in the interests of public order the meeting adjourn for (the period to be specified) to enable the Board to complete business without the presence of the public"* (Section 1 (8) Public Bodies (Admission to Meetings) Act 1960).

### 3.14 Annual General Meeting

3.14.1 The Trust will hold an Annual General Meeting on, or before, the 30<sup>th</sup> September each year at which its audited accounts, annual report and any report on the accounts made pursuant to the NHS and Community Care Act 1990, and the NHS Trusts (Public Meetings) Regulations 1991, shall be presented.

3.14.2 A public notice of the time and place of the meeting will be displayed at the Headquarters of the Trust at least three clear working days before the meeting.

3.14.3 A public notice of the time and place of the meeting will also be displayed in the local press, as determined by the Trust, at least three clear working days before the meeting.

3.14.4 Simultaneous translation facilities, from Welsh to English, will be provided at the meeting.

3.14.5 A copy of the agenda and the Annual Report, will be made available at the meeting.

3.14.6 As far as is practicable, accredited representatives of newspapers or news agencies, attending for the purpose of reporting the proceedings for those newspapers and agencies, will be afforded reasonable facilities for taking their report and, unless the public meeting is held in premises not belonging to the Trust or not on the telephone lines, for telephoning the report at their own expense.

3.14.7 Nothing in these SO's will require the Board to allow members of the public or representatives of the press to record proceedings in any matter whatsoever, other than writing, or to make any oral report of proceedings as they take place.

3.14.8 The above provisions (SO's 3.14.1 to 3.14.7) are without prejudice to the Trust's power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

3.14.9 The minutes of the Annual General Meeting will be formally recorded and approved at the next available Trust Board meeting.

### 3.15 Confidentiality

3.15.1 All agenda, reports and all other documents relating to proceedings of the Board, its committees and sub-committees will be treated as confidential until they become public in the ordinary course of the Trust's business.

3.15.2 A director will not disclose a matter dealt with, or brought before the Board, without permission, if the Board has resolved that it is confidential.

## 4. INTEREST OF DIRECTORS IN CONTRACTS AND OTHER MATTERS

### 4.1 Declaration of Interests

4.1.1 The Code of Conduct and Accountability requires directors to declare interests that are relevant and material to the Board. Interests that should be regarded as "relevant and material" include:

- ◆ directorships, including non-executive directorships held in private companies or PLC.'s
- ◆ ownership, or part-ownership, of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS
- ◆ majority, or controlling share holdings, in organisations likely or possibly seeking to do business with the NHS
- ◆ a position of authority in a charity or voluntary organisation in the field of health and social care
- ◆ any connection with a voluntary, or other organisation, contracting for NHS services

4.1.2 If Board directors have any doubt about the relevance of an interest, this should be discussed with the Chairman.

4.1.3 At the time the directors' interests are declared, they will be recorded in the Board minutes. Any changes in interests will be declared at the next Board meeting following the change occurring. Each Board meeting will include as an agenda item the declaration of directors' interests.

4.1.4 Board directors' directorships of companies likely or possibly seeking to do business with the NHS will be published in the Trust's Annual Report.

4.1.5 During the course of a Board meeting, if a conflict of interest is established, the director concerned will withdraw from the meeting and play no part in the relevant discussion or decision.

4.1.6 Other than is qualified as in paragraph 4.3.5, there is no requirement for the interests of Board directors' spouses or partners to be declared. SO 4.3 however, requires that, if living together, the interest of directors' spouses or partners in contracts be declared.

## 4.2 Register of Interests

4.2.1 The Chief Executive will ensure that a Register of Interests is established to record formally declarations of interest of directors. In particular, the Register will include details of all directorships, and other relevant and material interests, that have been declared by both executive and non-executive directors as defined in SO 4.1.

4.2.2 These details will be kept up to date by means of an annual declaration by all individual directors' at the April meeting of the Board. Any changes to interests declared during the preceding twelve months will be incorporated in the Register of Interests.

4.2.3 The Register will be available to the public and the Chief Executive will bring the existence of the register to the attention of the local public through an appropriately worded section to be included in the Annual Report.

## 4.3 Disability of Directors in Proceeding on Account of Pecuniary Interest

4.3.1 Subject to the following provisions, if a director has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter, and is present at a meeting of the Board at which the contract or other matter is the subject of consideration, he or she will, at the meeting and as soon as practicable after its commencement, disclose the fact and not take part in the consideration and discussion of the contract or other matter or vote on any question with respect to it.

4.3.2 The Minister for Health and Social Services may, subject to such conditions as he or she thinks fit to impose, remove any disability imposed by the above regulation in any case in which it appears to him or her in the interests of the health service that the disability be removed.

4.3.3 The Chairman may order the exclusion of a director from a meeting of the Board while any contract, proposed contract or other matter in which he or she has a pecuniary interest, direct or indirect, is under consideration.

4.3.4 Any remuneration, compensation or allowances payable to a director by virtue of paragraph 9 of Schedule 2 to the NHS and Community Care Act 1990, will not be treated as a pecuniary interest for the purpose of this regulation.

4.3.5 Subject to paragraphs 4.3.2 and 4.3.6, a director will be treated for the purpose of this regulation as having indirectly a pecuniary interest in a contract, proposed contract or other matter if:

- ◆ he or she or their nominee, is a director of a company or other body, not being a public body, with which the contract was made, or is proposed to be made, or which has a direct pecuniary interest in the other matter under consideration or,

- ◆ he or she is a business partner of, or is in the employment of, a person with whom the contract was made, or is proposed to be made, or who has a direct pecuniary interest in the other matter under consideration and, in the case of married persons or partners living together, the interest of one spouse or partner will be deemed for the purpose of this regulation to be also an interest of the other.

4.3.6 A director will not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

- ◆ of his or her membership of a company or other body if he or she has no beneficial interest in any securities of that company or other body;
- ◆ of an interest in any company, body or person with which he or she is connected, as mentioned in paragraph 4.3.5 above, which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a director in the consideration or discussion of, or in voting on, any question with respect to that contract or matter.

4.3.7 Where a director has:

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

this regulation will not prohibit him or her from taking part in consideration or discussion of the contract or other matter or from voting on any question in respect to it, without prejudice, however, to his or her duty to disclose their interest.

4.3.8 Any private or personal non-pecuniary interest in a matter should also be declared by the director concerned, unless it is insignificant or one shared with other members of the public generally as patients or as a resident of the area.

4.3.9 A director declaring a private or personal non-pecuniary interest may still speak and vote on a matter where:

- ◆ the interest arises in the director's capacity as a member of a public body and the matter in question relates to that public body.

- ◆ the interest arises from the director's appointment by the Board as their representative on a managing committee or governing body of a charity, voluntary body or other organisation formed for a public purpose, and not for the personal benefit of its members, and the matter in question relates to that body or organisation.
- ◆ the interest arises from the director being a member of a managing committee or other governing body of such an organisation as mentioned in the paragraph above, to which he or she was not appointed by the Board as their representative. However, the director may not vote on any matter directly affecting the finances or property of the organisation concerned.
- ◆ the interest arises from the director being an ordinary member or supporter of such an organisation, and the director is not a member of its managing committee or other governing body, and the matter in question relates to that organisation.

4.3.10 SO 4.3 applies to a committee, or sub-committee, of the Trust as it applies to the Board and applies to any member of any such committee or sub-committee (whether or not he or she is also a director of the Trust) as it applies to a director of the Trust.

## 5 APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES

- 5.1 The Board will appoint committees of the Trust consisting wholly, or partly, of directors of the Trust or wholly, or partly, of persons who are not directors of the Trust.
- 5.2 A committee appointed under this regulation may appoint sub-committees consisting wholly, or partly, of members of the committee (whether or not they include the directors of the Trust) or wholly of persons who are not members of the committee (whether or not they include directors of the Trust).
- 5.3 The Board will make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee or sub-committee appointed by virtue of paragraphs 5.1 and 5.2 above, subject to such restrictions, and conditions as the Trust thinks fit.
- 5.4 The following committees shall operate as directed by the Board in accordance with SO's:
- ◆ an Audit Committee which will consist of a Committee Chairman, who shall not be the Chairman of the Board, a minimum of two non-executive directors and one Trade Union Representative (without voting rights).
  - ◆ a Charitable Funds Committee which will consist of a Committee Chairman, a minimum of two non-executive directors, the Chief Executive, the Director of Finance and one Trade Union Representative (without voting rights).

- ◆ a Remuneration Committee which will consist of the Chairman, Chief Executive, all non-executive directors and one Trade Union Representative (without voting rights).
- ◆ a Bilingual Committee which will consist of the Chairman, the Chief Executive, at least two non-executive directors and one Trade Union Representative (without voting rights).
- ◆ a Clinical Governance Committee which will consist of a Committee Chairman, two other non-executive directors, the Chief Executive, two executive directors and one Trade Union Representative (without voting rights).
- ◆ The Clinical Governance Committee and Audit Committee may hold, under the integrated governance framework, a minimum of one joint meeting per year to consider matters of common interest to the committees. The Chair of the Audit Committee will chair the Joint Committee and in his / her absence, a Chair will be appointed from amongst those present.

The administrative arrangements, and functions, of these committees are set out in Appendix 1 of these SO's.

- 5.5 The Chairman of the Board shall be:
- ◆ Excluded from membership of the Audit Committee.
  - ◆ An ex-officio member of the Charitable Funds Committee and the Clinical Governance Committee.
- 5.6 The Chief Executive of the Board shall be:
- ◆ Excluded from membership of the Audit Committee.
  - ◆ Withdraw from meetings of the Remuneration Committee when discussions take place on his or her remuneration.
- 5.7 The SO's of the Trust, as far as they are applicable, will apply with appropriate alteration to meetings of any committee or sub-committees established by the Board and to members of committees and sub-committees, whether or not they are directors of the Trust. In addition, the following rules will apply:
- ◆ meetings of Committees will not be open to the public or press
  - ◆ membership of Committees will be appointed annually at the April meeting of the Board, or at a meeting held as soon thereafter as possible. The Board will fill vacancies as soon as practicable.
- 5.8 A committee, or panel, will be established for the purpose of hearing patient appeals against detention under the Mental Health Act 1983. For this purpose a number of people may be nominated as "managers" under the Mental Health Act. They will be non-executive directors of the Trust, or people who are not directors, but will as far as the latter are concerned and in the opinion of the Board, have sufficient expertise to carry out the functions of supplemental "managers". A non-executive director will always chair such appeals.

## 6. APPOINTMENT OF SENIOR OFFICERS

### 6.1 Methods of appointment

6.1.1 The Trust will determine the methods by which staff appointments will be made, including the appointment of consultant medical and honorary staff. These must conform to statutory procedures, or those policies laid down by Minister for Health and Social Services.

6.1.2 Where the Appointments Advisory Committee's recommendation is unanimous, the Board delegates the power of appointment of consultant medical staff to the Chief Executive or his nominated representative.

6.1.3 Where the recommendation of the Appointments Advisory Committee is not unanimous, a report will be submitted to the Board for ratification.

6.1.4 In respect of all consultant medical staff appointments a brief report should be prepared and signed by the Chairman of the Appointments Advisory Committee and the appointment reported to the next meeting of the Board.

### 6.2 Canvassing of, and Recommendations by, Directors

6.2.1 Canvassing of directors, or any committee of the Trust directly or indirectly, for any appointment with the Trust, will disqualify the candidate for such appointment. The content of this paragraph will be included in an application form or drawn to the attention of the candidate.

6.2.2 A director will not solicit for any person any appointment with the Trust or recommend any person for such appointment, but this paragraph shall not prevent a director from giving a written testimonial of a candidate's ability, experience or character.

6.2.3 Every director, and senior officer of the Trust, will disclose any relationship with a candidate of whose candidature that director or senior officer is aware.

6.2.4 Where the relationship to a director is disclosed, SO 4 (Interest of Directors in Contracts and Other Matters) will apply.

6.2.5 Relationships to which this SO applies are those of husband and wife and/or partners or where either of the two (i.e. director or senior officer and candidate) or the spouse of either to them is the son, daughter, grandson, grand-daughter, brother, sister, nephew or niece of the other, or of the spouse of the other.

## 7 INTEREST OF OFFICERS IN CONTRACTS

7.1 If it comes to the knowledge of an officer of the Trust that a contract in which he or she has any pecuniary interest, not being a contract to which he or she is a party, has been, or is proposed to be, entered into by the Trust, he or

she will at once, give notice in writing to the Board of the fact that he or she has an interest therein.

- 7.2 In the case of married persons, or partners, living together the interest of one spouse or partner shall, if known to the other, be deemed to be also in the interest of that spouse or partner. The provisions of this SO will also apply to any registered medical practitioner who is a member of the Trust management team.

## 8 THE CUSTODY OF THE COMMON SEAL AND SEALING OF DOCUMENTS

- 8.1 The Chief Executive will keep the Common Seal of the Trust in a secure place.
- 8.2 Where the Trust is required by law to seal a document, the Seal of the Trust will be fixed, in the presence of the Chairman (or Vice-Chairman) and of the Chief Executive or another executive director authorised by him or her and will be attested by them.
- 8.3 The Chief Executive will keep a register in which he or she, or a duly authorised executive director, will enter a record of the sealing of every document, and every such entry will be signed by those present when the document is sealed. The entries in the register will be consecutively numbered.
- 8.4 A report of all sealings will be made at the next appropriate meeting of the Board.

## 9. TENDERING AND CONTRACT PROCEDURE

### 9.1 Duty to comply with SO's

- 9.1.1 The procedure for making all contracts by or on behalf of the Trust shall comply with these SO's (except where SO 10.1 is applied).

### 9.2 EU Directive Governing Public Procurement

- 9.2.1 Directives by the Council of the European Union promulgated by the Welsh Assembly Government prescribing procedures for awarding all forms of contracts will have effect as if incorporated in these SO's.
- 9.2.2 The Trust will comply as far as is practicable with the requirements of the NHS Executive "Capital Investment Manual". In the case of management consultancy contracts the Trust will comply as far as is practicable with NHS Executive guidance "The Procurement and Management of Consultants within the NHS".
- 9.2.3 Where the value of the procurement exceeds the EU threshold and is exempt from EU tendering requirements, the Chief Executive and nominated Executive Director are authorised to waive the requirement of the Standing

orders to proceed via EU procurement. The Head of Supplies will advise when this provision can be applied.

9.2.4 The Chief Executive will formally inform the Trust Board when procurement exceeding the EU tendering threshold is waived on their behalf.

### 9.3 Formal Competitive Tendering

9.3.1 The Trust will ensure that competitive tenders are only invited by an officer or an agency approved by the Board for the supply of goods, materials and manufactured articles and for the rendering of services including all forms of management consultancy services (other than specialised services sought from or provided by the Welsh Assembly Government); for the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens); and for disposals.

9.3.2 Formal tendering procedures may be waived by officers to whom powers have been delegated by the Chief Executive without reference to the Chief Executive (except in (c) to (h) below) where:

- (a) the estimated expenditure or income does not, or is not reasonably expected to, exceed £50,000 (this figure to be reviewed annually); or
- (b) the supply is proposed under special arrangements negotiated by the Welsh Assembly Government in which event the said special arrangements must be complied with; or
- (c) the timescale genuinely precludes competitive tendering. Failure to plan the work properly is not a justification for single tender; or
- (d) specialist expertise is required and is available from only one source; or
- (e) the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate; or
- (f) there is a clear benefit to be gained from maintaining continuity with an earlier project. However in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering; or
- (g) provided for in the Capital Investment Manual; or
- (h) a contract is being considered for construction or engineering works, or for professional services relating to such works, with an all in capital value of £5 million or over, is to be let under a special arrangement negotiated by Welsh Health Estates or the National Assembly for Wales, (which terms include any successor bodies exercising its or

their functions) in accordance with the terms of such special arrangement.

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

Where it is decided that competitive tendering is not applicable and should be waived by virtue of (c) to (f) above the fact of the waiver and the reasons should be documented and reported by the Chief Executive to the Board in a formal meeting.

9.3.3 Except where SO 9.3.2, or a requirement under SO 9.2, applies, the Board will ensure that invitations to tender are sent to a sufficient number of firms/individuals to provide fair and adequate competition as appropriate, and in no case less than three firms/individuals, having regard to their capacity to supply the goods or materials or to undertake the services or works required.

9.3.4 The Board will ensure that normally the firms/individuals invited to tender (and where appropriate, quote) are among those on approved lists (see Appendix 3 Section 5). The list will include all firms/individuals who have applied for permission to tender and as to whose technical competence and financial standing the Board is satisfied. An exception may be made when, in the opinion of the Chief Executive, this would not be practicable taking into account all the circumstances. In these circumstances the reasons will be set down in a permanent record and will be reported to the Board for any contract in excess of delegated financial limits. Where in the opinion of the Director of Finance it is desirable to seek tenders from firms not on the approved lists, the reason will be recorded in writing to the Chief Executive

9.3.5 The procedures for tendering are set out in the Appendix 3

#### 9.4 Competitive Quotations

9.4.1 Competitive quotations are required where formal tendering procedures are waived under SO 9.3.2 (a) or (c) and where the intended expenditure or income exceeds, or is reasonably expected to exceed £5,000.

9.4.2 Where competitive quotations are required under SO 9.4 they should be obtained by the officer/agency approved by the Board from at least three firms/individuals as per Appendix 3 based on specifications or terms of reference prepared by, or on behalf of, the Board.

9.4.3 Competitive quotations must be in writing, unless the Chief Executive or his nominated officer determine that it is impractical to do so in which case quotations may be obtained by telephone. Confirmation of telephone quotation will be obtained as soon as possible and the reasons why the telephone quotation was obtained should be set out in a permanent record.

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

9.4.5 A quote other than the lowest, if payment is to be made by the Trust, will not be accepted unless value for money can be demonstrated and supported by the Executive Medical Director, Executive Director of Operations and Service Improvement or Executive Director of Finance (on areas outside their specific responsibilities). The Executive Director must be made aware that the quotation sought for approval is not the lowest, and a written justification of the reasons retained for future audit.

## 9.5 Non-Competitive Quotations

9.5.1 In exceptional circumstances non-competitive quotations may be deemed to be necessary. In these circumstances authorisation will be sought from the Chief Executive who, acting on behalf of the Board, may obtain a non-competitive quotation in writing for the following purposes:

- ◆ the supply of goods/services of a special character for which it is not, in the opinion of the Chief Executive or his nominated officer, possible or desirable to obtain competitive quotations;
- ◆ the goods/services are required urgently and are not obtained under existing Trust contracts.

## 9.6 Where tendering or competitive quotation is not required

9.6.1 Where tenders or quotations are not required, because expenditure is below £5,000 the Trust shall procure goods and services in accordance with procurement procedures approved by the Board.

9.6.2 The Chief Executive will be responsible for ensuring that best value for money can be demonstrated for all services provided under contract or in-house. The Board may also determine from time to time that in-house services should be market tested by competitive tendering.

## 9.7 Private Finance Initiatives.

9.7.1 When the Board proposes, or is required, to use finance provided under the private finance initiative the following should apply:

- ◆ The Chief Executive will demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector.
- ◆ Where the sum exceeds delegated limits £2 million a business case must be referred to the Welsh Assembly Government for approval or treated as per current guidelines.

- ◆ The proposal must be specifically agreed by the Board in the light of such professional advice as should reasonably be sought in particular with regard to ultra vires.
- ◆ The selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

## 9.8 Contracts

9.8.1 The Trust may only enter into contracts within its statutory powers and will comply with:

- ◆ these Standing Orders;
- ◆ the Trust's Standing Financial Instructions
- ◆ EU Directives and other statutory provisions;
- ◆ any relevant directions including the Capital Investment Manual and guidance on the Procurement and Management of Consultants;
- ◆ WHC (2008) 048 – NHS Conditions of Contract for Procurement Activity.

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

9.8.2 In all contracts made by the Trust, the Board will endeavour to obtain best value for money and ensure that appropriate Trust policies are adhered to. The Chief Executive will nominate an officer who will oversee and manage each contract on behalf of the Trust.

## 9.9 Personnel and Agency or Temporary Staff Contracts

9.9.1 The Chief Executive will nominate officers with delegated authority to enter into contracts for the employment of other officers, to authorise the re-gradings of staff, and enter into contracts for the employment of agency staff or temporary staff.

## 9.10 Healthcare Services Contracts

9.10.1 Healthcare contracts made between two NHS organisations for the supply of healthcare services, are subject to the provisions of the NHS and Community Care Act 1990. Such contracts do not give rise to contractual rights or liabilities but a dispute may be referred to an agreed arbitrator.

9.10.2 The Chief Executive will nominate officers with power to negotiate for the provision of healthcare services with purchasers of healthcare.

## 9.11 Cancellation of Contracts

9.11.1 Except where specific provision is made in WHC (2008) 048 NHS Conditions of Contract for Procurement Activity and in accordance with SO 9.2, 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:

- ◆ the contractor has 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 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,
- ◆ the contractor has showed, or a forbearing to show, favour or disfavour to any person in relation to the contracts or any other contract with the Trust,
- ◆ like acts have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor),
- ◆ in relation to any contract with the Trust the contractor or any person employed by him/her or acting on his/her behalf has committed any offence under the Prevention of Corruption Acts 1889 and 1916 and other appropriate legislation.

## 9.12 Determination of Contracts for Failure to Deliver Goods or Material

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

## 10 MISCELLANEOUS

### 10.1 Suspension of Standing Orders

10.1.1 The Board reserves the right, by resolution of the Board, to use its discretion to waive any one or more of the SO's if, in the Board's opinion, it is in the interest of the Trust to do so.

10.1.2 A decision to suspend SO's will be recorded in the minutes of the meeting.

10.1.3 A separate record of matters discussed during the suspension of SO's will be made and will be available to the directors.

- 10.1.4 The Audit Committee will review every decision to suspend SO's.
- 10.2 Variation and Amendment of Standing Orders  
These Standing Orders will not be varied except upon a notice of motion under SO 3.6 and unless there are at least two thirds of the directors present provided that any variations do not contravene a statutory provision or direction made by the Minister of Health and Social Services. *SO 10.1 may not be varied.*
- 10.3 Standing Orders to be given to Directors  
The Chief Executive will ensure that a copy of the SO's is given to each director of the Trust and other appropriate officers and that all new appointees are notified of, and understand their responsibilities within, SO's and SFI's.
- 10.4 Signature of Documents  
Where any document will be a necessary step in legal proceedings on behalf of the Trust it will, unless any enactment otherwise requires or authorises, be signed by the Chief Executive or by any other officer of the Trust duly authorised for this purpose.
- 10.4.1 Any contracts over £250k should be executed and signed under seal (reference Scheme of Delegation Section 4.2)
- 10.5 Standing Financial Instructions  
The Standing Financial Instructions (including tendering and contract procedures) adopted by the Trust in accordance with the Financial Regulations will have effect as if incorporated in these SO's.
- 10.6 Emergency Powers  
The powers which the Board has retained to itself within these SO's may in an emergency be exercised by the Chairman. The exercise of such powers will be reported to the next formal meeting of the Board for ratification.
- 10.7 Proceedings of the Trust Board  
The proceedings of the Board will not be invalidated by any vacancy in its membership or by any defect in a director's appointment.
- 10.8 Exclusion of Persons from Meetings of the Trust Board  
At any meeting of the Board it may be proposed and seconded by two different directors that some, or all, of the people present at the meeting who are not directors of the Trust should be excluded from part, or the remainder, of the meeting.
- 10.9 Amendment of Standing Orders  
Any amendment to standing orders, and all documents having the effect as if incorporated in SO's, will be subject to reporting to and approval at a meeting of the Trust Board.
- 10.10 Documents having the standing of Standing Orders  
Standing Financial Instructions and Reservations of Powers to the Board and Delegation of Powers (see Appendix 2) will have the effect as if incorporated into SO's.

## North West Wales NHS Trust

### Scheme of Administrative Arrangements and Functions of Committees of the Board

#### 1 Audit Committee

##### 1.1. *The Role of the Audit Committee*

The Audit Committee's primary role is to independently contribute to the Boards overall process for ensuring that an effective internal control system is maintained.

The Board will always retain responsibility for all aspects of internal control.

The Committees core activities relate to internal financial control issues. This will include the following:

- ◆ Safeguarding of assets;
- ◆ Maintenance of proper accounting records;
- ◆ The reliability of financial information;
- ◆ Independence and effectiveness of internal and external audit;
- ◆ The control environment (including measures to prevent and detect fraud)

##### 1.2 *Audit Committee Terms of Reference*

###### 1.2.1 Internal Control and Risk Management

The Committee shall review the establishment and maintenance of an effective system of internal control.

In particular the Committee will review the adequacy of:

- ◆ All risk and control related disclosure statements, together with any accompanying Head of Internal Audit statement, prior to endorsement by the board;
- ◆ The structures, process and responsibilities for identifying and managing key risks facing the organisation;
- ◆ The policies for ensuring that there is compliance with relevant regulatory, legal and code of conduct requirements as set out in the Welsh Risk Management Standards and other relevant guidance;
- ◆ The operational effectiveness of policies and procedures;
- ◆ The policies and procedures for all work related to fraud and corruption as set out in the Directions and as required by the Welsh Assembly Government.

### 1.2.2 Internal Audit

The Board has delegated the approval, annually, of an Internal Audit Plan and the detailed monitoring of an Internal Audit activity to the Audit Committee which shall:

- ◆ Receive a routine report from the Head of Internal Audit detailing performance against the Plan;
- ◆ Receive and consider summary of Audit findings, recommendations and the Trust management's responses;
- ◆ Review the annual report of the Head of Internal Audit before presentation to the Board;
- ◆ Receive advice from the Executive Director of Finance regarding recommendations, and authorise action, where appropriate;
- ◆ Report regularly to the Board on Audit matters and keep the Board fully informed of how the corporate duties and responsibilities are being conducted;
- ◆ Ensure co-ordination between the internal and external auditors

Where necessary, the Committee shall:

- ◆ Consider the appointment of the internal audit service, the audit fee and any questions of resignation and dismissal;
- ◆ Ensure that the internal audit function is adequately resourced and has appropriate standing within the organisation.

### 1.2.3 External Audit

The Committee shall:

- ◆ Consider the appointment of the External Auditor, as far as the Audit Commission's rules permit;
- ◆ Receive the Audit Plan from the External Auditor and discuss, prior to commencement of the Audit, the nature and scope of the audit and ensure coordination as appropriate, with other external audits/auditors in the local health economy;
- ◆ Receive and consider the External Auditor's annual Audit letter;
- ◆ Consideration of the ISA 260 Report from the External Audit;
- ◆ Consider the content of any report involving the Trust issued by the Public Accounts Committee or the Controller and Auditor General and review management's proposed response before presentation to the Board for consideration and agreement.

#### 1.2.4 Financial Reporting

The Committee shall review the annual financial statements prior to submission to the Board focussing particularly on:

- ◆ Changes in, and compliance with, accounting policies and practices;
- ◆ Major judgmental areas;
- ◆ Significant adjustments resulting from the audit.

#### 1.2.5 Other Responsibilities

The Committee will also:

- ◆ Consider any changes to the Board's Standing Orders, Standing Financial Instructions or Scheme of Delegation and recommend these to the Board for approval;
- ◆ Examine the circumstances of any occasions when Standing Orders are waived;
- ◆ Ensure that the policies and procedures for all work related fraud and corruption as set out in Welsh Assembly Government and as required by the Counter Fraud Services are in place;
- ◆ Review the Schedule of Losses and Compensation prior to their submission to the Board;
- ◆ Monitor the application of the Policy on Standards of Business Conduct for Board Members and staff thus providing assurance to the Board of probity in the conduct of business;
- ◆ Review the progress of the Trust in achieving the Healthcare Standards for Wales.

#### 1.3 Audit Committee Powers

- ◆ The Audit Committee will be formally established by the Board (under Standing Order 5) by approval of the Standing orders;
- ◆ The Committee is authorised by the Board to investigate or have investigated any activity within its Terms of Reference. It can seek any information it requires from any employee and all employees are directed to co-operate with any request made by the Committee;
- ◆ The Committee is authorised by the Board to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary, subject to compliance with Trust Standing Orders and Standing Financial Instructions;
- ◆ The Committee will meet at least three times in each financial year, or at such frequency as may be determined by the Committee Chairman;
- ◆ Formal membership will comprise of not less than three Non Executive Directors (with a quorum of two members) one of whom will

act as Committee Chairman, plus one Trade Union Representative (without voting rights).

- ◆ Where possible one Non-Executive Director member should have a financial background;
- ◆ None of the Non-Executive members will be Chairman of the Trust although he or she, together with Chief Executive, may be invited to attend meetings by prior agreement with the Chairman of the Audit Committee for specific agenda items pertinent to the Board;
- ◆ None of the Executive Directors will be members of the Committee;
- ◆ The Executive Director of Finance, Head of Internal Audit and representative of External Audit will normally be expected to attend the meetings of the Committee;
- ◆ The Audit Committee may, by giving reasonable notice, require the attendance of any of the Directors or staff and auditors of the Board at any meetings of the Committee.
- ◆ There will be an opportunity for the Committee to meet the external Auditor once a year without the Chairman and Executive Directors being present;
- ◆ The minutes of meeting of the Committee will be formally recorded and approved at the next meeting. A copy of the minutes of the committee will be presented to the next available meeting of the Trust Board;
- ◆ The Committee Chairman will be required to respond to questions about the work of the Committee at the Trust's Annual General Meeting;
- ◆ The composition of the Committee will be given in the Annual Report

## 2 Charitable Funds Committee

### 2.1 *The Role of the Charitable Funds Committee*

The Charitable Funds Committee will, on behalf of the Board, monitor and control the administration of those gifts, donations and endowments made to the Trust under the relevant charities legislation.

### 2.2 *Terms of Reference*

The Committee will normally undertake the following duties:-

- ◆ Appoint Investment Consultants, within the parameters of current legislation and subject to the approval of the Board, and agree the investment and re-investment of Endowment Funds;
- ◆ Monitor expenditure of Endowment Funds and consider recommendations on the expenditure of funds above the delegated levels determined in the Standing Financial Instructions;

- ◆ Approve all new financial policies and procedures, other than those specifically determined and reserved by the Trust Board, and any updates required to policies and procedures concerning Funds Held on Trust;
- ◆ Review the annual financial statements and the annual report for the Funds Held on Trust, prior to submission to the Trust Board, focussing particularly on:
  - Changes in and compliance with accounting policies and practices and any directives issued by the Charity Commission;
  - Major judgmental areas;
  - Significant adjustment resulting from the audit.

### 2.3 *Administrative Arrangements*

- ◆ The Charitable Funds Committee will be formally established by the Board (under Standing Order 5) by approval of the Standing Orders.
- ◆ The Committee will meet at least quarterly, or at such frequency as may be determined by the Committee Chairman;
- ◆ Formal membership will comprise a minimum of three Non-Executive directors, the Chief Executive, the Director of Finance plus one Trade Union Representative (without voting rights), with a minimum quorum of two Non-Executive Directors;
- ◆ The Minutes of the meetings of the Committee will be formally recorded and approved at the next meeting. A copy of the minutes of the Committee will be presented to the next available meeting of the Trust Board;
- ◆ The composition of the Committee will be given in the Annual Report.

## 3. Remuneration Committee - Terms of Reference

### 3.1 *Introduction:*

3.1.1 The Code of Conduct and Accountability for NHS Boards issued in January 2007 under cover of WHC (2006) 090 requires ( at page 11, para 15, 8<sup>th</sup> bullet point) NHS Trusts to establish Remuneration Committees 'on the basis of formally agreed terms of reference that set out the membership of the sub-committee, the limit of their powers and the arrangements for reporting back to the main Board'.

3.1.2 The Remuneration Committee will be formally established by the Board (under Standing Order 5) by approval of the Standing Orders.

### 3.2 *Role of the Remuneration Committee:*

3.2.1 The Remuneration Committee will advise the Board about appropriate remuneration and terms of service for the Chief Executive, Executive Directors and any other Associate Director for whom remuneration is not determined by other

means. Advice to the Board on remuneration will include all aspects of salary, provisions for other benefits, as well as arrangements for termination of employment and other contractual terms.

3.2.2 The norm for posts considered by the Remuneration Committee is for salaries to be uplifted in accordance with the WAG identified normal pay inflation percentage. If there is to be uplift over and above this level, this will always be agreed as a result of changes in roles and responsibilities and with advice from an independent consultancy with specialist knowledge of job evaluation and executive pay within the NHS.

3.2.3 The Remuneration Committee will receive a detailed report in respect of issues to be considered in relation to any uplift to salaries (including advice from WAG) and having considered all the advice and issues put before them will report their recommendations to the Trust Board for ratification.

3.2.4 The Committee also reviews objectives set for the Chief Executive, Executive Directors and Associate Directors and assesses performance against those objectives when considering recommendations in respect of annual pay uplifts. The Remuneration Committee will be assisted in assessing the performance of the Chief Executive by the Chairman who undertakes the individual performance review and for others by the Chief Executive who undertakes the individual performance reviews of all other posts.

3.2.5 The Committee will determine the remuneration and contractual terms for the Chief Executive, Executive Directors and Associate Directors of the Trust Board, and in so doing, will promote the principles of equality and diversity.

### 3.3 *Membership:*

3.3.1 Formal membership will comprise the Board Chairman, all Non-Executive Directors, the Chief Executive and one Trade Union representative (without voting rights). The Chairman and three Non Executive Directors will need to be present at each meeting in order to achieve a quorum.

3.3.2 The Chief Executive will not be present for discussion about his / her own remuneration and terms of service.

3.3.3 The Composition of the Committee will be given in the Annual Report.

### 3.4 *Frequency of meetings:*

3.4.1 The Committee will meet as often as required to address business, but this will not be less than once per year.

### 3.5 *Delegation of powers and reporting :*

3.5.1 The Committee will have delegated powers from the Trust Board, as outlined in section 2.1 of the Scheme of Reservation and Delegation, to make decisions on

the remuneration of the Chief Executive, Executive Directors and other Associate Directors for whom remuneration is not determined by other means.

3.5.2 The minutes of the Committee will be formally submitted to the Board for information and, where appropriate, ratification or otherwise of its recommendations.

3.5.3 Any member of the Board who has a direct or indirect interest in any matter reported to the Board shall declare such interest, not participate in discussions or vote on that matter, and shall withdraw from the meeting if deemed appropriate by the Chairman.

### 3.6 *Secretariat*

3.6.1 The Committee will be serviced by the Board Secretary.

3.6.2 Advice on all matters should be obtained from the Trust Chief Executive.

## 4 Bilingual Committee

### 4.1 *The Role of the Bilingual Committee*

The Bilingual Committee will, on behalf of the Board, co-ordinate and monitor the Trust's bilingual policy and provide a forum for monitoring developments in respect of the Welsh Language Scheme.

### 4.2 *Terms of Reference*

The Committee will normally undertake the following duties:-

- ◆ Review targets and report on the progress made in developing bilingual services;
- ◆ Offer advice and guidance to ensure that new policies and procedures, or new publications and information provided by the Trust, are compatible with the deliver of bilingual services on the basis of equality;
- ◆ Monitor the incidence and nature of complaints relating to the Trust's Welsh Language Scheme;
- ◆ Liaise with the Welsh Language Board to ensure that targets set out in the Scheme are met;
- ◆ Approve the Annual Report on the Language Scheme prior to its submission to the Welsh Language Board.

### 4.3 *Administrative Arrangements*

- ◆ The Bilingual Committee will be formally established by the Board (under Standing Order 5) by approval of the Standing Orders.
- ◆ The Committee will meet at least quarterly, or at such frequency as may be determined by the Committee Chairman;

- ◆ Formal membership will comprise the Chairman, the Chief Executive, a minimum of two Non-Executive Directors, plus one Trade Union Representative (without voting rights).
- ◆ The Chairman and one Non-Executive, or in the absence of the Chairman two Non-Executives need to be present at each meeting in order to achieve a quorum.
- ◆ The minutes of the meeting of the Committee will be formally recorded and approved at the next meeting. A copy of the minutes of the committee will be presented to the next available meeting of the Trust Board;
- ◆ The composition of the Committee will be given in the Trust's Annual Report.

## 5 Clinical Governance Committee

### 5.1 *The Role of the Clinical Governance Committee*

The Clinical Governance Committee will, on behalf of the Board, ensure the implementation of clinical governance in accordance with the requirements of Government guidance.

### 5.2 *Terms of Reference*

The Committee will normally undertake the following duties:-

- ◆ Ensure the effective implementation of the Clinical Governance initiative throughout the Trust in accordance with the requirements of the Welsh Assembly Government;
- ◆ Review the strategy for the Clinical Governance within the Trust;
- ◆ Receive progress reports;
- ◆ Ensure co-ordination of Clinical Governance with other initiatives of the Trust and its partners, and to initiate action;
- ◆ Receive an annual Report;
- ◆ Report the above to the Board;
- ◆ Receive reports on national initiatives and monitor progress.

#### *Administrative Arrangements*

- ◆ The Clinical Governance Committee will be formally established by the Board (under Standing Order 5) by approval of the Standing Orders.
- ◆ The Committee will meet at least quarterly;
- ◆ The formal membership of the Committee will comprise of a minimum of three non-executive directors, two executive directors and a representative of North West Wales Federation of Community Health Councils and a representative of Conwy Federation of Community Health Councils, plus one Trade Union Representative (without voting rights).
- ◆ The Executive Nurse Director, Executive Medical Director, Assistant to the Medical Director (Clinical Effectiveness) and the Head of Therapy Services will be in attendance.
- ◆ The Chief Executive will be an ex-officio member;

- ◆ Additional members (without voting rights) may be co-opted in order to ensure an appropriate balance of skills and responsibilities;
- ◆ There will be a minimum quorum of three, including one Non-Executive Director;
- ◆ The minutes of the Committee will be formally recorded and presented to the Board for consideration at its next meeting;
- ◆ The composition of the Committee will be given in the Trust's Annual Report;
- ◆ The Committee will be able to require the attendance of any member of staff;

## 6. Joint Audit and Clinical Governance Committee - Terms of Reference

### 6.1 *The role and function of the Joint Committee:*

6.1.1 To support the Trust's integrated governance framework and provide assurances on strategic aims 1 to 8.

6.1.2 To consider items of joint interest to the Audit Committee and Clinical Governance Committee, thus contributing to the Trust Board's overall process for ensuring that an effective internal control system is maintained, and ensuring the implementation of clinical governance in accordance with the requirements of Government guidance.

### 6.2 *The Joint Committee shall:*

6.2.1 On behalf of the Trust Board, act as the reviewing, monitoring and advisory body on strategic and operational matters of common interest.

6.2.2 Receive assessments of risk, audit plans, Strategic Assurance Framework annual reports, Welsh Risk Pool and Healthcare Standards reports and other items as deemed appropriate by the Chair.

6.2.3 Review how the Executives have ensured that any follow-on recommendations and lessons learned are acted upon and shared, contributing to organisational learning.

### 6.3 *Membership:*

6.3.1 The Chair of the Audit Committee shall also Chair the Joint Committee and in his/her absence, a Chair shall be appointed from amongst those present.

6.3.2 The membership of the Joint Committee shall be composed from the combined membership of the Audit Committee and Clinical Governance Committee, with ex-officio members and individuals in attendance also being in accordance with the administrative arrangements detailed in Appendix 1 of the Standing Orders.

6.3.3 There shall be a minimum quorum of five, including three Non-Executive Directors.

6.3.4 Additional members (without voting rights) may be co-opted at the Chair's discretion, to ensure an appropriate balance of skills and responsibilities.

6.3.5 The composition of the Joint Committee shall be given in the Trust's Annual Report.

*6.4 Authority:*

6.4.1 The Joint Audit and Clinical Governance Committee will be formally established by the Trust Board (under Standing Order 5) by approval of the Standing Orders.

*6.5 Conduct of meetings:*

6.5.1 The Joint Committee will hold a formal meeting a minimum of once per year, and as frequently as determined necessary by the Chair.

6.5.2 The Joint Committee shall be able to require the attendance of any member of staff.

6.5.3 Meetings will be formally minuted, with names attached to allocated actions and collated into a summary action plan. Minutes will be approved at the next meeting.

6.5.4 The Joint Committee will be serviced by the Board Secretary.

*6.6 Reporting arrangements:*

6.6.1 The minutes of the Joint Committee (in draft form if awaiting approval) will be presented for information to the next available meeting of the Trust Board.

6.6.2 The Chair shall be required to respond to questions about the work of the Committee at the Trust's Annual General Meeting.

**North West Wales NHS Trust**

**Tendering Procedure**

1. Invitation To Tender

- 1.1. The Chief Executive will ensure that tenders are only issued by an officer/agency approved by the Board.
- 1.2. All invitations to tender on a formal competitive basis shall state that no tender will be considered for acceptance unless submitted in either:-
  - [a] 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
  - [b] in a special envelope supplied by the Trust to prospective tenderers and the tender envelopes/packages will not bear any names or marks indicting the sender.
- 1.3. Every tender for goods, materials, manufactured articles supplied as part of a works contract and services will embody such of the main contract conditions as may be appropriate in accordance with the contract forms described in Section 1.4 and 1.5 below.
- 1.4. Every tender for building and engineering works, except for maintenance work only where Estmancode guidance should be followed, will embody or be in the terms of the current edition of the appropriate Joint Contracts Tribunal (JCT) or Department of the Environment (GC/Wks) standard forms of contract amended to comply with Concode. When the content of the works is primarily engineering, tenders will embody or be in the terms of the General Conditions of Contract recommended by the Institutions Mechanical Engineers and the Association of Consulting Engineers (Form A) or, in the case of civil engineering work, the General Conditions of Contract recommended by the Institution of Civil Engineers. The standard documents should be amended to comply with Concode and, in minor respects, to cover special features of individual projects. Tendering based on other forms of contract may be used only after prior consultation with the Welsh Assembly Government.
- 1.5. Every tender for goods, materials, services (including consultancy services) or disposals will embody such of the NHS Standard Contract Conditions as are applicable. Every tenderer must have given or give a written undertaking not to engage in collusive tendering or other restrictive practice.
- 1.6. Where appropriate, and being careful to maintain fairness, the Trust should consider making pre-tender contact with the market to discuss and clarify the

specification, particularly if it is complex or unusual. The Trust should consider offering potential bidders opportunities to discuss any potential ambiguity about the interpretation of the service specification before tenders are submitted and include a glossary in their service specifications that defines any potentially ambiguous terms.

## 2. Receipt, Safe Custody and Record of Formal Tenders

- 2.1. Formal competitive tenders will be addressed to the Chief Executive.
- 2.2. The date and time of receipt of each tender will be endorsed on the unopened tender envelope/package.
- 2.3. The Chief Executive will designate an officer or officers, not from the originating department, to receive tenders on his behalf and to be responsible for their endorsement and safe custody until the time appointed for their opening, and for the records maintained in accordance with Section 3.

## 3. Opening Formal Tenders

- 3.1. As soon as practicable after the date and time stated as being the latest time for the receipt of tenders, they will be opened in the presence of two senior officers designated by the Chief Executive and not from the originating department.
- 3.2. Every tender received will be stamped with the date of opening and initialled by two of those present at the opening.
- 3.3. A permanent record will be maintained to show for each set of competitive tender invitations despatched:-
  - [a] the names of firms/individuals invited;
  - [b] the names of and the number of firms/individuals from which tenders have been received;
  - [c] the total price(s) tendered;
  - [d] closing date and time;
  - [e] date and time of opening;

and the persons present at the opening will sign the record.

- 3.4. Except as in Section 3.5 below, a record will be maintained of all price alterations on tenders, (i.e. where a price has apparently been altered), and the final price shown will be recorded. Every price alteration appearing on a tender and the record should be initialled by two of those present at the opening.
- 3.5. A report will be made in the record if, on any one tender, price alterations are so numerous as to render the procedure in Section 3.4 unreasonable.

3.6. The Chief Executive will ensure that two officers present at the opening of tenders sign the tender documents, including any summaries of bills of quantities, and any correspondence from the tenderer.

#### 4. Admissibility and Acceptance of Formal Tenders

4.1. In considering which tender to accept, if any, the designated officers will have regard to whether value for money will be obtained by the Trust and whether the number of tenders received provides adequate competition. In cases of doubt they will consult the Chief Executive. Designated officers have the power to accept a tender if it is:-

[a] below the budget cost and,

[b] represents value for money

subject to the overall limits of authority detailed in capital procedures. The Chief Executive must approve any tender above the budget cost, and refer to the Board if the lowest accepted tender is more than the higher of 10% above the budget cost or £50,000.

4.2. Tenders received after the due time and date may be considered only if the Chief Executive or nominated officer decides that there are exceptional circumstances, (e.g. where significant financial, technical or delivery advantages would accrue), and is satisfied that there is no reason to doubt the bona fides of the tenders concerned. The Chief Executive or nominated officer will decide whether such tenders are admissible and whether re-tendering is desirable. Re-tendering may be limited to those tenders reasonably in the field of consideration in the original competition. If the tender is accepted the late arrival of the tender should be reported to the Board at its next meeting.

4.3. Technically late tenders (i.e. those despatched in good time but delayed through no fault of the tenderer) may, at the discretion of the Chief Executive, be regarded as having arrived in due time.

4.4. Incomplete tenders (ie those from which information necessary for the adjudication of the tender is missing) and emended tenders (ie 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 under Section 4.2.

4.5. Where examination of tenders reveals errors that would affect the tender figure, the tenderer is to be given details of such errors and afforded the opportunity of confirming or withdrawing his offer.

4.6. The Trust should confirm that referees are in a position to comment authoritatively on the capacity to provide the services being tendered for, that referees have no potential conflicts of interest and that all references are fully recorded and retained.

- 4.7. Necessary discussions with a tenderer of the contents of his tender, in order to elucidate technical points etc, before the award of a contract, need not disqualify the tender, but, only if conducted by an officer/agency approved by the Trust Board. The Chief Executive will ensure that a record is retained detailing any aspects discussed and the outcome of any necessary clarification. Any discussions with tenderers, reasons for doing so and the outcome must be recorded, signed and witnessed.
- 4.8. While decisions as to the admissibility of late, incomplete, or amended tenders are under consideration and while re-tenders are being obtained, the tender documents will remain strictly confidential and kept in safekeeping by an officer designated by the Chief Executive.
- 4.9. Where only one tender/quotation is received the Trust will, as far as practicable, ensure that the price to be paid is fair and reasonable.
- 4.10. A tender other than the lowest (if payment is to be made by the Trust), or other than the highest (if payment is to be received by the Trust) will not be accepted unless for good and sufficient reason the Board decides otherwise and record that decision in their minutes and in the record referred to in 3.3 above.
- 4.11. Where the form of contract includes a fluctuation clause, all applications for price variations must be submitted in writing by the tenderer and will be approved by the Chief Executive or Executive Director of Operations and Service Improvement, having taken advice from the Executive Director of Finance.

Approval of a fluctuation by the Chief Executive or Executive Director of Operations and Service Improvement is limited to 10% of the total agreed contract price or £50,000 maximum.

Above this limit, Trust Board approval is required/ approval by the Chairman within Standing Order 10.6 – Emergency Powers, due to time constraints.

A report will then be prepared for the Audit Committee detailing the circumstances for the additional funding and the basis on which the decision was made.

- 4.12. Where additional funding is awarded to contractors, outside the terms of a contract, the Trust should:
- Robustly assess the evidence that there are exceptional circumstances to justify the funding; and
  - Fully record the basis of the decision.

Approval of funding outside the terms of a contract, following consultation with the Executive Director of Finance, is the delegated responsibility of the Chief Executive or Executive Director of Operations and Service Improvement and is limited to 10% of the total agreed contract price or £50,000 maximum.

Above this limit, Trust Board approval is required/ approval by the Chairman within Standing Order 10.6 – Emergency Powers, due to time constraints.

A report will then be prepared for the Audit Committee detailing the circumstances for the additional funding and the basis on which the decision was made.

- 4.13. All tenders should be treated as confidential and should be retained for inspection.
- 4.14. The Chief Executive will ensure that each successful tenderer is notified as soon as practicable and, once the contract has been let, every tenderer will be promptly supplied with a list of tender prices for all works contracts.
- 4.15. The Chief Executive will formally report to the Board on schemes above his delegated limit, the following:-
  - [a] all budget cost estimates which show an increase over the allocated expenditure;
  - [b] the reasons for any increase in budget cost estimates for formal approval, or otherwise, by the Board;
  - [c] all pre-tender estimates of building, engineering and maintenance works schemes which are more than 5% of the budget costs.
  - [d] the firms/individuals who tendered for the work and the respective tender sums for each; and
  - [e] tenders accepted or the tenders recommended for acceptance.

## 5. Lists of Approved Firms

- 5.1. The Director of Finance will ensure that approved lists of contractors are maintained of firms and individuals by an officer/agency approved by the Board, from whom tenders may be invited, and will keep these under review. The lists will be selected from all firms that have applied for permission to tender provided that:-
  - [a] in the case of building, engineering and maintenance works, the Director of Finance is satisfied on their capacity, conditions of labour, etc, and that their financial standing is adequate.
  - [b] in the case of the supply of goods, materials and related services, and consultancy services the Chief Executive or the nominated officer is satisfied as to their technical competence etc, and that the Director of Finance is satisfied that their financial standing is adequate.

[c] in the case of the provision of healthcare services to the Trust by a private sector provider, the Director of Finance is satisfied as to their financial standing and the Medical Director is satisfied as to their technical/medical competence.

- 5.2. The Trust will arrange for advertisements to be issued as may be necessary, and not less frequently than every third year, in trade journals and national newspapers inviting applications from firms for inclusion in the prescribed lists.
- 5.3. If in the opinion of the Chief Executive or the Director of Finance it is impractical to use a list of approved firms/individuals (for example where specialist services or skills are required and there are insufficient suitable potential contractors on the list), the Chief Executive should ensure that appropriate checks are carried out as to the technical and financial capability of firms invited to tender or quote.
- 5.4. A permanent record should be made of the reasons for inviting a tender or quote other than from an approved list.