

**STANDING ORDERS, RESERVATION AND DELEGATION of  
POWERS and STANDING FINANCIAL INSTRUCTIONS**

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SECTION A.....	1
1. INTERPRETATION AND DEFINITIONS FOR STANDING ORDERS AND STANDING FINANCIAL INSTRUCTIONS .....	1
1.2.31 "Senior Manager means a person of Band 8 or above. ....	3
ORDERS.....	3
SECTION B – STANDING ORDERS.....	4
1. INTRODUCTION.....	4
1.1 Statutory Framework.....	4
1.2 NHS Framework .....	4
1.3 Delegation of Powers.....	5
1.4 Integrated Governance .....	5
2. THE PRIMARY CARE TRUST BOARD: COMPOSITION OF MEMBERSHIP, TENURE AND ROLE OF MEMBERS .....	5
2.1 Composition of the Board: .....	5
2.3 Terms of Office of the Chairman and Members.....	6
2.4 Appointment and Powers of Vice-Chairman .....	6
2.5 Joint Members .....	6
2.6 Officer Members appointed by the Chairman of the PCT following nomination by the Professional Executive Committee .....	7
2.7 LINKs.....	7
2.8 Role of Members.....	7
2.9 Corporate role of the Board .....	8
2.10 Schedule of Matters reserved to the Board and Scheme of Delegation.....	8
3. MEETINGS OF THE PCT .....	8
3.1 Calling meetings .....	8
3.2 Notice of Meetings and the Business to be transacted .....	8
3.3 Agenda and Supporting Papers.....	9
3.4 Petitions .....	9
3.5 Notice of Motion .....	9
3.6 Emergency Motions .....	9
3.7 Motions: Procedure at and during a meeting .....	9
3.8 Motion to Rescind a Resolution .....	11
3.9 Chairman of meeting.....	11
3.10 Chairman's ruling.....	11
3.11 Quorum .....	11
3.12 Voting .....	11
3.13 Suspension of Standing Orders .....	12
3.14 Variation and amendment of Standing Orders .....	12
3.15 Record of Attendance.....	12
3.16 Minutes.....	13
3.17 Admission of public and the press.....	13
3.18 Observers at PCT meetings .....	14
4. APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES .....	14
4.1 Appointment of Committees.....	14
4.2 Professional Executive Committee .....	14
4.3 Joint Committees .....	14
4.4 Applicability of Standing Orders and Standing Financial Instructions to Committees.....	14
4.5 Terms of Reference .....	15
4.6 Delegation of powers by Committees to Sub-Committees .....	15
4.7 Approval of Appointments to Committees.....	15
4.8 Appointments for Statutory functions .....	15
4.9 Committees established by the PCT Board .....	15
5. ARRANGEMENTS FOR THE EXERCISE OF PCT FUNCTIONS BY DELEGATION.....	16
5.1 Delegation of Functions to Committees, Officers or other bodies.....	16
5.2 Emergency Powers and urgent decisions.....	17
5.3 Delegation to Committees.....	17

5.4	Delegation to Officers .....	17
5.5	Schedule of Matters Reserved to the Board and Scheme of Delegation of powers 18	
5.6	Duty to report non-compliance with Standing Orders and Standing Financial Instructions .....	18
6.	OVERLAP WITH OTHER PCT POLICY STATEMENTS/PROCEDURES, REGULATIONS AND THE STANDING FINANCIAL INSTRUCTIONS.....	18
6.1	Policy statements: general principles.....	18
6.2	Specific Policy statements .....	18
6.3	Standing Financial Instructions .....	19
6.4	Specific guidance.....	19
7.	DUTIES AND OBLIGATIONS OF BOARD MEMBERS/DIRECTORS AND SENIOR MANAGERS UNDER THESE STANDING ORDERS .....	19
7.1	Declaration of Interests .....	19
7.2	Register of Interests.....	20
7.3	Exclusion of Chairman and Members in proceedings on account of pecuniary interest.....	20
7.4	Standards of Business Conduct.....	23
8.	CUSTODY OF SEAL, SEALING OF DOCUMENTS AND SIGNATURE OF DOCUMENTS .....	24
8.1	Custody of Seal.....	24
8.2	Sealing of Documents.....	25
8.3	Register of Sealing.....	25
8.4	Use of Seal – General guide.....	25
8.5	Signature of documents .....	25
9.	MISCELLANEOUS (see overlap with SFI No. 21.3) .....	25
9.1	Joint Finance Arrangements .....	25
	Section C – Schedule of Matters Reserved to the Board and Detailed Scheme of Delegation .....	26
	SUMMARY SCHEME OF DELEGATION.....	57
	SECTION D - STANDING FINANCIAL INSTRUCTIONS .....	59
10.	INTRODUCTION .....	59
10.1	General.....	59
10.2	Responsibilities and delegation .....	59
10.2.1	The PCT Board .....	59
11.	AUDIT.....	62
11.1	Audit Committee .....	62
11.2	Director of Finance.....	64
11.3	Role of Internal Audit.....	65
11.4	External Audit .....	66
11.5	Fraud and Corruption .....	66
11.6	Security Management .....	66
12.	RESOURCE LIMIT CONTROL .....	66
13.	ALLOCATIONS, LOCAL OPERATIONAL PLAN, BUDGETS, BUDGETARY CONTROL AND MONITORING.....	67
13.1	Allocations .....	67
13.2	Preparation and Approval of LOP and Budgets .....	67
13.3	Budgetary Delegation.....	68
13.4	Budgetary Control and Reporting.....	68
13.5	Capital Expenditure .....	69
13.6	Monitoring Returns .....	69
14.	ANNUAL ACCOUNTS AND REPORTS .....	69
15.	BANK AND OPG ACCOUNTS .....	69
15.1	General.....	69
15.2	Bank and OPG Accounts .....	70
15.3	Banking Procedures .....	70
15.4	Tendering and Review .....	70

16.	INCOME, FEES AND CHARGES AND SECURITY OF CASH, CHEQUES AND OTHER NEGOTIABLE INSTRUMENTS .....	70
16.1	Income Systems .....	70
16.2	Fees and Charges .....	71
16.3	Debt Recovery .....	71
16.4	Security of Cash, Cheques and other Negotiable Instruments .....	71
17.	TENDERING AND CONTRACTING PROCEDURE .....	71
17.1	Duty to comply with Standing Orders and Standing Financial Instructions ....	71
17.2	EU Directives Governing Public Procurement .....	71
17.3	Reverse e Auctions .....	72
17.4	Capital Investment Manual and other Department of Health Guidance .....	72
17.5	Formal Competitive Tendering .....	72
17.6	Contracting/Tendering Procedure .....	74
17.7	Quotations: Competitive and non-competitive .....	78
17.8	Authorisation of Tenders and Competitive Quotations .....	79
17.9	Instances where formal competitive tendering or competitive quotation is not required	79
17.10	Private Finance for capital procurement (see overlap with SFI No. 23) .....	79
17.11	Compliance requirements for all contracts .....	79
17.12	Personnel and Agency or Temporary Staff Contracts .....	80
17.13	Healthcare Services Agreements (see overlap with SFI No. 18) .....	80
17.14	Disposals (See overlap with SFI No. 25) .....	80
17.15	In-house Services .....	80
18.	NHS SERVICE AGREEMENTS FOR PROVISION OF SERVICES (see overlap with SFI No. 17.13) .....	81
18.1	Service Level Agreements (SLAs) .....	81
18.2	Involving Partners and jointly managing risk .....	81
18.3	A 'Patient-Led NHS and 'Practice Based Commissioning' .....	82
18.4	Reports to Board on SLAs .....	83
19.	COMMISSIONING .....	83
19.1	Role of the PCT in Commissioning Secondary Services .....	83
19.2	Role of the Chief Executive .....	83
19.3	Role of Director of Finance .....	84
20.	TERMS OF SERVICE, ALLOWANCES AND PAYMENT OF MEMBERS OF THE PCT BOARD AND EXECUTIVE COMMITTEE AND EMPLOYEES .....	84
20.1	Remuneration and Terms of Service (see overlap with SO No. 4) .....	84
20.2	Funded Establishment .....	85
20.3	Staff Appointments .....	85
20.4	Processing Payroll .....	85
20.5	Contracts of Employment .....	86
21.	NON-PAY EXPENDITURE .....	87
21.1	Delegation of Authority .....	87
21.2	Choice, Requisitioning, Ordering, Receipt and Payment for Goods and Services (see overlap with Standing Financial Instruction No. 17) .....	87
21.3	Joint Finance Arrangements with Local Authorities and Voluntary Bodies (see overlap with Standing Order No. 9.1) .....	90
22.	FINANCIAL FRAMEWORK .....	90
23.	CAPITAL INVESTMENT, PRIVATE FINANCING, FIXED ASSET REGISTERS AND SECURITY OF ASSETS .....	90
23.1	Capital Investment .....	90
23.2	Private Finance (see overlap with SFI No. 17.10) .....	91
23.3	Asset Registers .....	91
23.4	Security of Assets .....	92
23.5	NHS LIFT .....	93
24.	STORES AND RECEIPT OF GOODS .....	93
24.1	General position .....	93
24.2	Control of Stores, Stocktaking, condemnations and disposal .....	93

24.3	Goods supplied by NHS Logistics .....	93
25.	DISPOSALS AND CONDEMNATIONS, LOSSES AND SPECIAL PAYMENTS....	94
25.1	Disposals and Condemnations.....	94
25.2	Losses and Special Payments .....	94
26.	INFORMATION TECHNOLOGY .....	95
26.1	Responsibilities and duties of the Director of Finance .....	95
26.2	Responsibilities and duties of other Directors and Officers in relation to computer systems of a general application .....	95
26.3	Contracts for computer services with other health bodies or outside agencies	96
26.4	Requirements for computer systems which have an impact on corporate financial systems .....	96
27	PATIENTS' PROPERTY.....	96
28.	FUNDS HELD ON TRUST .....	97
28.1	Corporate Trustee .....	97
28.2	Accountability to Charity Commission and Secretary of State for Health.....	97
28.3	Applicability of Standing Financial Instructions to funds held on Trust.....	97
29.	ACCEPTANCE OF GIFTS BY STAFF AND LINK TO STANDARDS OF BUSINESS CONDUCT (see overlap with SO No. 6 and SFI No. 21.2.6 (d)).....	98
30.	PAYMENTS TO INDEPENDENT CONTRACTORS .....	98
30.1	Role of the PCT .....	98
30.2	Duties of the Chief Executive .....	98
30.3	Duties of the Director of Finance .....	98
31.	RETENTION OF RECORDS .....	99
32.	RISK MANAGEMENT AND INSURANCE .....	99
32.1	Programme of Risk Management.....	99
32.2	Insurance: Risk Pooling Schemes administered by NHSLA .....	99
32.3	Insurance arrangements with commercial insurers.....	100
32.4	Arrangements to be followed by the Board in agreeing Insurance cover .....	100

## **SECTION A**

### **1. INTERPRETATION AND DEFINITIONS FOR STANDING ORDERS AND STANDING FINANCIAL INSTRUCTIONS**

- 1.1** Save as otherwise permitted by law, at any meeting the Chairman of the PCT shall be the final authority on the interpretation of Standing Orders (on which they should be advised by the Chief Executive or Secretary to the Board).
- 1.2** Any expression to which a meaning is given in the National Health Service Act 1977, National Health Service and Community Care Act 1990 and other Acts relating to the National Health Service or in the Financial Regulations made under the Acts shall have the same meaning in these Standing Orders and Standing Financial Instructions and in addition:
- 1.2.1** "Accountable Officer" means the NHS Officer responsible and accountable for funds entrusted to the PCT. The officer shall be responsible for ensuring the proper stewardship of public funds and assets. For this PCT it shall be the Chief Executive.
- 1.2.2** "PCT" means the Nottinghamshire County Teaching Primary Care Trust.
- 1.2.3** "APO" means Autonomous Provider Organisation (Nottinghamshire Community Health)
- 1.2.4** "Board" means the Chairman, officer and non-officer members of the PCT collectively as a body.
- 1.2.5** "Budget" means a resource, expressed in financial terms, proposed by the Board for the purpose of carrying out, for a specific period, any or all of the functions of the PCT.
- 1.2.6** "Budget holder" means the Director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation.
- 1.2.7** "Chairman of the Board (or PCT)" is the person appointed by the Secretary of State for Health to lead the Board and to ensure that it successfully discharges its overall responsibility for the PCT as a whole. The expression "the Chairman of the PCT" shall be deemed to include the Vice-Chairman of the PCT if the Chairman is absent from the meeting or is otherwise unavailable.
- 1.2.8** "Chairman of the Clinical Reference Group" means the person elected by the members of the Clinical Reference Group as a sub committee of the Board.
- 1.2.9** "Chief Executive" means the chief officer of the PCT.
- 1.2.10** "Commissioning" means the process for determining the need for and for obtaining the supply of healthcare and related services by the PCT within available resources.
- 1.2.11** "Committee" means a committee or sub-committee created and appointed by the PCT.
- 1.2.12** "Committee members" means persons formally appointed by the Board to sit on or to chair specific committees.
- 1.2.13** "Contracting and procuring" means the systems for obtaining the supply of goods, materials, manufactured items, services, building and engineering services, works of construction and maintenance and for disposal of surplus and obsolete assets.
- 1.2.14** "Director of Finance" means the Chief Financial Officer of the PCT.

- 1.2.15 "Director of Public Health" means a health care professional who is a specialist in Public Health or a consultant in Public Health medicine who may hold the post of Director of Public Health.
- 1.2.16 "Professional Executive Committee" means the committee appointed in accordance with regulation 9(1) of the Primary Care Trust (Membership, Procedure and Administration Arrangements) Regulations 2000 as amended by the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No.2) (England) Regulations 2002 (SI 2002 No. 557) and the Primary Care Trust (Membership, Procedure and Administration Arrangements) Amendment (England) Regulations 2003 (SI 2003 No. 1616) to exercise such functions of the PCT as are specified in directions given by the Secretary of State. Directions for membership of the Executive Committee are set out in the Primary Care Trust Executive Committees (Membership) Directions 2003.
- 1.2.17 "Funds held on trust" shall mean those funds which the PCT holds on date of incorporation, receives on distribution by statutory instrument or chooses subsequently to accept under powers derived under S.90 of the NHS Act 1977, as amended. Such funds may or may not be charitable.
- 1.2.18 "Healthcare Professional member" means a member of the Professional Executive Committee, who is a member of a regulated healthcare profession as defined by the NHS Reform and Healthcare Professions Act 2002.
- 1.2.19 "Member" means officer or non officer member of the Board or the Professional Executive Committee as the context permits. Member in relation to the Board does not include its Chairman.
- 1.2.20 "Associate Member" means a person appointed to perform specific statutory and non-statutory duties which have been delegated by the PCT Board for them to perform and these duties have been recorded in an appropriate PCT Board minute or other suitable record.
- 1.2.21 "Membership, Procedure and Administration Arrangements Regulations" means the Primary Care Trusts (Membership, procedure and Administration Arrangements) Regulations 2000 [(SI (2000)89)], as amended by the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No.2) (England) Regulations 2002 (SI 2002 No. 557) and the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (England) Regulations 2003 (SI 2003 No. 1616).
- 1.2.223 "Nominated officer" means an officer charged with the responsibility for discharging specific tasks within Standing Orders and Standing Financial Instructions.
- 1.2.23 "Non-officer member" means a member of the PCT who is not an officer of the PCT and is not to be treated as an officer by virtue of regulation 1(3) of the Membership, Procedure and Administration Arrangements Regulations.
- 1.2.24 "Officer" means employee of the PCT or any other person holding a paid appointment or office with the PCT.
- 1.2.25 "Officer member" means a member of the PCT who is either an officer of the PCT or is to be treated as an officer by virtue of regulation 1(3) (i.e. the Chairman of the PCT Executive Committee or any person nominated by such a Committee for appointment as a PCT member).
- 1.2.26 "Part II services" means General Medical Services, General Dental Services, General Ophthalmic Services or Pharmaceutical Services under the NHS Act 1977.
- 1.2.27 "Company Secretary" means a person appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the Chairman and

monitor the PCT's compliance with the law, Standing Orders, and Department of Health guidance.

**1.2.28 "SFIs" means Standing Financial Instructions.**

**1.2.29 "SOs" means Standing Orders.**

**1.2.30 "Vice-Chairman" means the non-officer member appointed by the Board to take on the Chairman's duties if the Chairman is absent for any reason.**

**1.2.31 "Senior Manager means a person of Band 8 or above.**



## SECTION B – STANDING ORDERS

### 1. INTRODUCTION

#### 1.1 Statutory Framework

- (1) The Nottinghamshire County Teaching Primary Care Trust (the Primary Care Trust) is a statutory body which came into existence on 1 October 2006 under The Nottinghamshire County Primary Care Trust (Establishment) Order 2006 No 2072, (the Establishment Order).
- (2) The principal place of business of the Primary Care Trust is Birch House, Ransom Wood Business Park, Southwell Road West, Rainworth, Mansfield, Nottinghamshire.
- (3) Primary Care Trusts (PCTs) are governed by Act of Parliament, mainly the National Health Service Act 1977 (NHS Act 1977), the National Health Service and Community Care Act 1990 (NHS & CC Act 1990) as amended by the Health Authorities Act 1995 and the Health Act 1999 and the Health and Social Care Act 2001.
- (4) The PCTs (Membership, Procedure and Administration Arrangements) Regulations 2000 [SI 2000/89], amended by the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No.2) (England) Regulations 2002 [SI 2002 No. 557] and the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (England) Regulations 2003 [SI 2003 No. 1616], the Primary Care Trust Executive Committees (Membership) Directions 2003 and the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002 [SI 2002/2375] set out in broad terms the functions exercisable by Strategic Health Authorities and PCTs. These Regulations set out the functions which a Strategic Health Authority must direct a PCT to perform, and those functions which they must not direct a PCT to perform. Other functions are left to the SHA's discretion. In addition the National Health Service Act 1977 (Schedule 5a, paragraph 12) as inserted by the Health Act 1999 confers a general power directly on PCTs to do certain things ancillary to their main functions, such as the power to acquire land, make contracts and accept gifts.
- (5) As a statutory body, the PCT has specified powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable as well as to the Secretary of State for Health. The PCT also has statutory powers under Section 28A of the NHS Act 1977 including to fund projects jointly planned with local authorities, voluntary organisations and other bodies.
- (6) The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000 No 89, the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No 2) (England) Regulations 2002 [SI 2002/557] and the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (England) Regulations 2003 [SI 2003 No. 1616] require the PCT to adopt Standing Orders for the regulation of its proceedings and business. Such Standing Orders should take account of the National Health Service Reform and Health Care Professions Act 2002. In accordance with the Corporate Governance Framework the PCT must also adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals.
- (7) The PCT will also be bound by such other statutes and legal provisions which govern the conduct of its affairs.

#### 1.2 NHS Framework

- (1) In addition to the statutory requirements the Secretary of State through the Department of Health issues further directions and guidance. These are normally issued under cover of a circular or letter.
- (2) The Code of Accountability requires that, inter alia, 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 the Professional Executive Committee and to senior executives (a scheme of delegation). The code also requires the establishment of audit and remuneration committees with formally agreed terms of reference. The Codes of Conduct makes various requirements concerning possible conflicts of interest of Board members.
- (3) The Code of Practice on Openness in the NHS sets out the requirements for public access to information on the NHS.

### **1.3 Delegation of Powers**

- (1) The National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002 [SI 2002 / 2375] confer on the PCT powers to delegate and make arrangements for delegation. The PCT Standing Orders set out the detail of these arrangements. Under Standing Order No. 5 relating to the 'Arrangements for the Exercise of Functions', the PCT is given powers to "make arrangements for the exercise, on behalf of the PCT of any of their functions by a committee, sub-committee or joint committee appointed by virtue of Standing Order No. 5 or by an officer of the PCT, in each case subject to such restrictions and conditions as the PCT thinks fit or as the Secretary of State may direct'.

Delegated Powers are covered in a separate document entitled – 'Schedule of Matters Reserved to the Board and Scheme of Delegation' . This document has effect as if incorporated into the Standing Orders and Standing Financial Instructions.

### **1.4 Integrated Governance**

PCT Boards are now encouraged to move away from silo governance and develop integrated governance that will lead to good governance and to ensure that decision-making is informed by intelligent information covering the full range of corporate, financial, clinical, information and research governance. Guidance from the Department of Health on the move toward and implementation of integrated governance has been issued and will be incorporated in the PCT's Governance Strategy (see Integrated Governance Handbook 2006). Integrated governance will better enable the Board to take a holistic view of the organisation and its capacity to meet its legal and statutory requirements and clinical, quality and financial objectives resulting in a more cost effective service and more efficient information processes.

## **2. THE PRIMARY CARE TRUST BOARD: COMPOSITION OF MEMBERSHIP, TENURE AND ROLE OF MEMBERS**

### **2.1 Composition of the Board:**

The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000 (SI (2000) 89)), were amended by the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No.2) (England) Regulations 2002 (SI 2002 No. 557), so that the composition of the Board may be varied without the requirement for Parliament to amend individual Establishment Orders. In accordance with the Membership, Procedure and Administration Arrangements regulations the composition of the Board shall be::

- (1) The Chairman of the PCT (appointed by the NHS Appointments Commission);
- (2) Up to 7 non-officer members (appointed by the NHS Appointments Commission);

- (3) Up to 7 officer members (but not exceeding the number of non-officer members) including:
- the Chief Executive;
  - the Director of Finance;
  - the Chairman of the Professional Executive Committee;
  - the Director of Public Health
  - at least one person, but not more than 3, appointed by the Chairman of the PCT following nomination by the Professional Executive Committee;
  - officers of the PCT, other than the Chief Executive and Director of Finance, appointed by the Chairman and non-officer members of the PCT.

The PCT shall have not more than 14 members (excluding the Chair).

## **2.2 Appointment of Chairman and Members of the PCT**

- (1) Appointment of the Chairman and Members of the PCT - Paragraph 4 of Schedule 5A to the 1977 Act, as inserted by the Health Act 1999, provides that the Chairman is appointed by the Secretary of State, as advised by the Independent Appointments Commission. Otherwise the appointment and tenure of office of the Chairman and members are set out in the Membership, Procedure and Administration Arrangements Regulations. Disqualification from holding office is defined in The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (England) Regulations 2003 (SI 2003 No.1616).

## **2.3 Terms of Office of the Chairman and Members**

- (1) The regulations setting out the period of tenure of office of the Chairman and members and for the termination or suspension of office of the Chairman and members are contained in Sections 2 to 4 of the Membership, Procedure and Administration Arrangements and Administration Regulations.

## **2.4 Appointment and Powers of Vice-Chairman**

- (1) Subject to Standing Order 2.4 (2) below, the Chairman and members of the PCT may appoint one of their number, who is not also an officer member, to be Vice-Chairman, for such period, not exceeding the remainder of his/her term as a member of the PCT, as they may specify on appointing him/her.
- (2) Any member so appointed may at any time resign from the office of Vice-Chairman by giving notice in writing to the Chairman. The Chairman and members may thereupon appoint another member as Vice-Chairman in accordance with the provisions of Standing Order 2.4 (1).
- (3) Where the Chairman of the PCT has died or has ceased to hold office, or where they have been unable to perform their duties as Chairman owing to illness or any other cause, the Vice-Chairman shall act as Chairman until a new Chairman is appointed or the existing Chairman resumes their duties, as the case may be; and references to the Chairman in these Standing Orders shall, so long as there is no Chairman able to perform those duties, be taken to include references to the Vice-Chairman.

## **2.5 Joint Members**

- (1) Where more than one person is appointed jointly to a post mentioned in regulation 2(4)(a) of the Membership, Procedure and Administration Arrangements Regulations those persons shall count for the purpose of Standing Order 2.1 as one person.
- (2) Where the office of a member of the Board is shared jointly by more than one person:
- (a) Either or both of those persons may attend or take part in meetings of the Board;

- (b) If both are present at a meeting they should cast one vote if they agree;
- (c) In the case of disagreements no vote should be cast;
- (d) The presence of either or both of those persons should count as the presence of one person for the purposes of Standing Order 3.11 Quorum.

**2.6 Officer Members appointed by the Chairman of the PCT following nomination by the Professional Executive Committee**

Where only one such person is appointed, that person shall be a member of the Professional Executive Committee. Where more than one person is appointed at least two shall be members of that committee. Such officer members, including the Chairman of the Professional Executive Committee shall include at least one medical practitioner and one nurse.

**2.7 LINKs**

– Section 15 of the National Health Service and Health Care Professions Act 2002 requires the Secretary of State to establish a Patients' Forum for every NHS Trust and PCT. Patient Forums are independent of PCTs and are maintained and supported by the Commission for Patient and Public Involvement in Health. Section 11 of the Act imposes a duty on Strategic Health Authorities, PCTs, NHS Trusts and NHS Foundation Trusts to make arrangements with a view to securing that the public are, directly or through representatives, involved in and consulted on the planning of health services, the development and consideration of proposals for service changes, and decisions affecting the operation of health services.

**2.8 Role of Members**

The Board will function as a corporate decision-making body, Officer and Non-Officer Members will be full and equal members. Their role as members of the Board of Directors will be to consider the key strategic and managerial issues facing the PCT in carrying out its statutory and other functions.

**(1) Executive Members**

Executive Members shall exercise their authority within the terms of these Standing Orders and Standing Financial Instructions and the Scheme of Delegation.

**(2) Chief Executive**

The Chief Executive shall be responsible for the overall performance of the executive functions of the PCT. He/she is the Accountable Officer for the PCT and shall be responsible for ensuring the discharge of obligations under Financial Directions and in line with the requirements of the Accountable Officer Memorandum for PCT Chief Executives.

**(3) Director of Finance**

The Director of Finance shall be responsible for the provision of financial advice to the PCT and to its members and for the supervision of financial control and accounting systems. He/she shall be responsible along with Chief Executive for ensuring the discharge of obligations under relevant Financial Directions.

**(4) Non-Executive Members**

The Non-Executive Members shall not be granted nor shall they seek to exercise any individual executive powers on behalf of the PCT. They may however, exercise collective authority when acting as members of or when chairing a committee of the PCT which has delegated powers.

**(2) Chairman**

The Chairman shall be responsible for the operation of the Board and chair all Board Meetings when present. The Chairman has certain delegated executive powers. The Chairman must comply with the terms of appointment and with these Standing Orders.

The Chairman shall liaise with the NHS Appointments Commission over the appointment of Non-Executive Directors and once appointed shall take responsibility either directly or indirectly for their induction, their portfolios of interests and assignments, and their performance.

The Chairman shall work in close harmony with the Chief Executive and shall ensure that key and appropriate issues are discussed by the Board in a timely manner with all the necessary information and advice being made available to the Board to inform the debate and ultimate resolutions.

## **2.9 Corporate role of the Board**

- (1) All business shall be conducted in the name of the PCT.
- (2) All funds received in trust shall be held in the name of the PCT as corporate trustee.
- (3) The powers of the PCT established under statute shall be exercised by the Board meeting in public session except as otherwise provided for in Standing Order No. 3.
- (4) The Board shall define and regularly review the functions it exercises on behalf of the Strategic Health Authority and the Secretary of State.

## **2.10 Schedule of Matters reserved to the Board and Scheme of Delegation**

- (1) The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These powers and decisions are set out in the 'Schedule of Matters Reserved to the Board' and shall have effect as if incorporated into the Standing Orders. Those powers which it has delegated to officers and other bodies are contained in the Scheme of Delegation.

## **3. MEETINGS OF THE PCT**

### **3.1 Calling meetings**

- (1) Ordinary meetings of the Board shall be held at regular intervals at such times and places as the Board may determine.
- (2) The Chairman of the PCT may call a meeting of the Board at any time.
- (3) One-third or more members of the Board may requisition a meeting in writing. If the Chairman refuses, or fails, to call a meeting within seven days of a requisition being presented, the members signing the requisition may forthwith call a meeting.

### **3.2 Notice of Meetings and the Business to be transacted**

- (1) Before each meeting of the Board a written notice specifying the business proposed to be transacted shall be delivered to every member, or sent by post to the usual place of residence of each member, so as to be available to members at least three clear working days before the meeting. The notice shall be signed by the Chairman or by an officer authorised by the Chairman to sign on their behalf. Want of service of such a notice on any member shall not affect the validity of a meeting.
- (2) In the case of a meeting called by members in default of the Chairman calling the meeting, the notice shall be signed by those members.
- (3) No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under Standing Order 3.6.

- (4) A member desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman at least 15 clear days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 15 days before a meeting may be included on the agenda at the discretion of the Chairman.
- (5) Before each meeting of the Board a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed at the PCT's principal offices at least three clear days before the meeting, (required by the Public Bodies (Admission to Meetings) Act 1960 Section 1 (4) (a)).

### **3.3 Agenda and Supporting Papers**

The Agenda will be sent to members at least six working days before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be despatched no later than three working days before the meeting, save in emergency. The Board may determine that certain matters shall appear on every agenda for a meeting and shall be addressed prior to any other business being conducted. (Such matters may be identified within these Standing Orders or following subsequent resolution shall be listed in an Appendix to the Standing Orders.)

### **3.4 Petitions**

Where a petition has been received by the PCT the Chairman shall include the petition as an item for the agenda of the next meeting.

### **3.5 Notice of Motion**

- (1) Subject to the provision of Standing Orders 3.7 'Motions: Procedure at and during a meeting' and 3.8 'Motions to Rescind a Resolution', a member of the Board wishing to move a motion shall send a written notice to the Chief Executive who will ensure that it is brought to the immediate attention of the Chairman.
- (2) The notice shall be delivered at least 15 clear days before the meeting. The Chief Executive shall include in the agenda for the meeting all notices so received that are in order and permissible under governing regulations. This Standing Order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

### **3.6 Emergency Motions**

Subject to the agreement of the Chairman, and subject also to the provision of Standing Order 3.7 'Motions: Procedure at and during a meeting', a member of the Board may give written notice of an emergency motion after the issue of the notice of meeting and agenda, up to one hour before the time fixed for the meeting. The notice shall state the grounds of urgency. If in order, it shall be declared to the PCT Board at the commencement of the business of the meeting as an additional item included in the agenda. The Chairman's decision to include the item shall be final.

### **3.7 Motions: Procedure at and during a meeting**

#### **i) Who may propose**

A motion may be proposed by the Chairman of the meeting or any member present. It must also be seconded by another member.

#### **ii) Contents of motions**

The Chairman may exclude from the debate at their discretion any such motion of which notice was not given on the notice summoning the meeting other than a motion relating to:

- the reception of a report;
- consideration of any item of business before the PCT Board;
- the accuracy of minutes;
- that the Board proceed to next business;
- that the Board adjourn;
- that the question be now put.

**iii) Amendments to motions**

A motion for amendment shall not be discussed unless it has been proposed and seconded.

Amendments to motions shall be moved relevant to the motion, and shall not have the effect of negating the motion before the Board.

If there are a number of amendments, they shall be considered one at a time. When a motion has been amended, the amended motion shall become the substantive motion before the meeting, upon which any further amendment may be moved.

**iv) Rights of reply to motions**

**a) Amendments**

The mover of an amendment may reply to the debate on their amendment immediately prior to the mover of the original motion, who shall have the right of reply at the close of debate on the amendment, but may not otherwise speak on it.

**b) Substantive/original motion**

The member who proposed the substantive motion shall have a right of reply at the close of any debate on the motion.

**v) Withdrawing a motion**

A motion, or an amendment to a motion, may be withdrawn.

**vi) Motions once under debate**

When a motion is under debate, no motion may be moved other than:

- an amendment to the motion;
- the adjournment of the discussion, or the meeting;
- that the meeting proceed to the next business;
- that the question should be now put;
- the appointment of an 'ad hoc' committee to deal with a specific item of business;
- that a member/director be not further heard;
- a motion under Section I (2) or Section I (8) of the Public Bodies (Admissions to Meetings) Act 1960 resolving to exclude the public, including the press (see Standing Order 3.17).

In those cases where the motion is either that the meeting proceeds to the 'next business' or 'that the question be now put' in the interests of objectivity these should only be put forward by a member of the Board who has not taken part in the debate and who is eligible to vote.

If a motion to proceed to the next business or that the question be now put, is carried, the Chairman should give the mover of the substantive motion under debate a right of reply, if not already exercised. The matter should then be put to the vote.

**3.8 Motion to Rescind a Resolution**

- (1) Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the member who gives it and also the signature of three other members, and before considering any such motion of which notice shall have been given, the PCT Board may refer the matter to any appropriate Committee or the Chief Executive for recommendation.
- (2) When any such motion has been dealt with by the PCT Board it shall not be competent for any director/member other than the Chairman to propose a motion to the same effect within six months. This Standing Order shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the Chief Executive.

**3.9 Chairman of meeting**

- (1) At any meeting of the PCT Board the Chairman, if present, shall preside. If the Chairman is absent from the meeting, the Vice-Chairman (if the Board has appointed one), if present, shall preside.
- (2) If the Chairman is absent temporarily on the grounds of a declared conflict of interest the Vice-Chairman, if present, shall preside. If the Chairman and Vice-Chairman are absent, or are disqualified from participating, such non-executive member as the members present shall choose shall preside.

**3.10 Chairman's ruling**

The decision of the Chairman of the meeting on questions of order, relevancy and regularity (including procedure on handling motions) and their interpretation of the Standing Orders and Standing Financial Instructions, at the meeting, shall be final.

**3.11 Quorum**

- (i) No business shall be transacted at a meeting unless at least one-third of the whole number of the Chairman and members (including at least one member who is also an Officer Member of the PCT and one member who is not) is present.
- (ii) An Officer in attendance for an Executive Director (Officer Member) but without formal acting up status may not count towards the quorum.
- (iii) If the Chairman or member has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of a declaration of a conflict of interest (see SO No.7) that person shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

**3.12 Voting**

- (i) Save as provided in Standing Orders 3.13 - Suspension of Standing Orders and 3.14 - Variation and Amendment of Standing Orders, every question put to a vote at a meeting shall be determined by a majority of the votes of members present and voting on the question. In the case of an equal vote, the person presiding (ie: the Chairman of the meeting shall have a second, and casting vote.



- (ii) At the discretion of the Chairman all questions put to the vote shall be determined by oral expression or by a show of hands, unless the Chairman directs otherwise, or it is proposed, seconded and carried that a vote be taken by paper ballot.
- (iii) If at least one-third of the members present so request, the voting on any question may be recorded so as to show how each member present voted or did not vote (except when conducted by paper ballot).
- (iv) If a member so requests, their vote shall be recorded by name.
- (v) In no circumstances may an absent member vote by proxy. Absence is defined as being absent at the time of the vote.
- (vi) A manager who has been formally appointed to act up for an Officer Member during a period of incapacity or temporarily to fill an Executive Director vacancy shall be entitled to exercise the voting rights of the Officer Member.
- (vii) A manager attending the PCT Board meeting to represent an Officer Member during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Officer Member. An Officer's status when attending a meeting shall be recorded in the minutes.
- (viii) For the voting rules relating to joint members see Standing Order 2.5.

### **3.13 Suspension of Standing Orders**

- (i) Except where this would contravene any statutory provision or any direction made by the Secretary of State or the rules relating to the Quorum (SO 3.11), any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the whole number of the members of the Board are present (including at least one member who is an Officer Member of the PCT and one member who is not) and that at least two-thirds of those members present signify their agreement to such suspension. The reason for the suspension shall be recorded in the PCT Board's minutes.
- (ii) A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chairman and members of the PCT.
- (iii) No formal business may be transacted while Standing Orders are suspended.
- (iv) The Audit Committee shall review every decision to suspend Standing Orders.

### **3.14 Variation and amendment of Standing Orders**

These Standing Orders shall not be varied except in the following circumstances:

- Upon a notice of motion under Standing Order 3.5;
- Upon a recommendation of the Chairman or Chief Executive included on the agenda for the meeting;
- That two-thirds of the Board members are present at the meeting where the variation or amendment is being discussed, and that at least half of the PCT's Non-Officer Members vote in favour of the amendment;
- Providing that any variation or amendment does not contravene a statutory provision or direction made by the Secretary of State.

### **3.15 Record of Attendance**

The names of the Chairman and Directors/Members present at the meeting shall be recorded.

### **3.16 Minutes**

The minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting where they shall be signed by the person presiding at it.

No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate.

Minutes shall be circulated in accordance with members' wishes. Where providing a record of a public meeting the minutes shall be made available to the public as required by Code of Practice on Openness in the NHS.

### **3.17 Admission of public and the press**

- (i) Admission and exclusion on grounds of confidentiality of business to be transacted

The public and representatives of the press may attend all meetings of the PCT, but shall be required to withdraw upon the PCT 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
- Guidance should be sought from the PCT's Freedom of Information Lead to ensure correct procedure is followed on matters to be included in the exclusion.

- (ii) General disturbances

The Chairman (or Vice-Chairman if one has been appointed) or the person presiding over the meeting shall give such directions as he/she thinks fit with regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the PCT's business shall be conducted without interruption and disruption and, without prejudice to the power to exclude on grounds of the confidential nature of the business to be transacted, the public will be required to withdraw upon the PCT Board resolving as follows:

- 'That in the interests of public order the meeting adjourn for (the period to be specified) to enable the PCT Board to complete its business without the presence of the public'. Section 1(8) Public Bodies (Admissions to Meetings) Act 1960.

- (iii) Business proposed to be transacted when the press and public have been excluded from a meeting

Matters to be dealt with by the PCT Board following the exclusion of representatives of the press, and other members of the public, as provided in (i) and (ii) above, shall be confidential to the members of the Board.

Members and Officers or any employee of the PCT in attendance shall not reveal or disclose the contents of papers marked 'In Confidence' or minutes headed 'Items Taken in Private' outside of the PCT, without the express permission of the PCT. This prohibition shall apply equally to the content of any discussion during the Board meeting which may take place on such reports or papers.

- (iv) **Use of Mechanical or Electrical Equipment for Recording or Transmission of Meetings**

Nothing in these Standing Orders shall be construed as permitting the introduction by the public, or press representatives, of recording, transmitting, video or similar apparatus into meetings of the PCT or Committee thereof. Such permission shall be granted only upon resolution of the PCT.

**3.18 Observers at PCT meetings**

The PCT will decide what arrangements and terms and conditions it feels are appropriate to offer in extending an invitation to observers to attend and address any of the PCT Board's meetings and may change, alter or vary these terms and conditions as it deems fit.

**4. APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES**

**4.1 Appointment of Committees**

Subject to such directions as may be given by the Secretary of State for Health, the PCT Board may appoint committees of the PCT.

The PCT shall determine the membership and terms of reference of committees and sub-committees and shall if it requires to, receive and consider reports of such committees.

**4.2 Professional Executive Committee**

- (1) The PCT shall, appoint a committee to be known as its Professional Executive Committee to exercise functions specified in the directions. The membership of the Professional Executive Committee, which shall be drawn up in accordance with these directions, shall include medical practitioners, nurses and other persons who are not members of the PCT. Members of the Professional Executive Committee shall be appointed and their tenure of office terminated in accordance with these directions.
- (2) The Chairman of the PCT shall appoint one of the members of the Professional Executive Committee (not including the Chief Executive or Finance Director of the PCT) as Chairman of the Professional Executive Committee, and another member as vice-Chairman, following nomination by that committee.

**4.3 Joint Committees**

- (i) Joint committees may be appointed by the PCT by joining together with one or more other health service bodies consisting of, wholly or partly of the Chairman and members of the PCT or other health service bodies, or wholly of persons who are not members of the PCT or other health service bodies in question.
- (ii) Any committee or joint committee appointed under this Standing Order may, subject to such directions as may be given by the Secretary of State or the PCT or other health bodies in question, appoint sub-committees consisting wholly or partly of members of the committees or joint committee (whether or not they are members of the PCT or health bodies in question) or wholly of persons who are not members of the PCT or health bodies in question or the committee of the PCT or health bodies in question.

**4.4 Applicability of Standing Orders and Standing Financial Instructions to Committees**

The Standing Orders and Standing Financial Instructions of the PCT, as far as they are applicable, shall as appropriate apply to meetings of the Professional Executive Committee and any committees established by the PCT. In which case the term "Chairman" is to be read as a reference to the Chairman of the Professional

Executive Committee, or other committee as the context permits, and the term “member” is to be read as a reference to a member of the Professional Executive Committee, or other committee also as the context permits. (There is no requirement to hold meetings of committees, including the Professional Executive Committee, established by the PCT in public.)

**4.5 Terms of Reference**

Each such committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board), as the Board shall decide and shall be in accordance with any legislation and regulation or direction issued by the Secretary of State. Such terms of reference shall have effect as if incorporated into the Standing Orders.

**4.6 Delegation of powers by Committees to Sub-Committees**

Where committees are authorised to establish sub-committees they may not delegate executive powers to the sub-committee unless expressly authorised by the PCT Board (or Professional Executive Committee in the case of sub-committees established by the Professional Executive Committee).

**4.7 Approval of Appointments to Committees**

The Board shall approve the appointments to each of the committees which it has formally constituted. Where the Board determines, and regulations permit, that persons, who are neither members nor officers, shall be appointed to a committee the terms of such appointment shall be within the powers of the Board as defined by the Secretary of State. The Board shall define the powers of such appointees and shall agree allowances, including reimbursement for loss of earnings, and/or expenses in accordance where appropriate with national guidance.

**4.8 Appointments for Statutory functions**

Where the Board is required to appoint persons to a committee and/or to undertake statutory functions as required by the Secretary of State, and where such appointments are to operate independently of the Board such appointment shall be made in accordance with the regulations and directions made by the Secretary of State.

**4.9 Committees established by the PCT Board**

The committees, sub-committees, and joint-committees established by the Board are:

**4.9.1 Professional Executive Committee**

In accordance with the Primary Care Trust Executive Committees (Membership) Directions 2003 the Board will, in line with those directions establish a Professional Executive Committee.

**4.9.2 Audit Committee**

In line with the requirements of the NHS Audit Committee Handbook, NHS Codes of Conduct and Accountability, and more recently the Higgs report, an Audit Committee will be established and constituted to provide the PCT Board with an independent and objective review on its financial systems, financial information and compliance with laws, guidance, and regulations governing the NHS. The Terms of Reference will be approved by the PCT Board and reviewed on a periodic basis.

The Higgs report recommends a minimum of three Non-Executive Directors be appointed, unless the Board decides otherwise, of which one must have significant, recent and relevant financial experience.

The chair of the Audit Committee is appointed in line with current approved practice.

**4.9.3 Remuneration and Terms of Service Committee**

In line with the requirements of the NHS Codes of Conduct and Accountability, and more recently the Higgs report, a Terms of Service and Remuneration Committee will be established and constituted.

The Higgs report recommends the Committee be comprised exclusively of Non-Executive Directors, a minimum of three, who are independent of management.

The purpose of the Committee will be to advise the PCT Board about appropriate remuneration and terms of service for the Chief Executive and other Executive Directors including:

- (i) all aspects of salary (including any performance-related elements/bonuses);
- (ii) provisions for other benefits, including pensions and cars;
- (iii) arrangements for termination of employment and other contractual terms.

**4.9.4 Trust and Charitable Funds Committee**

Funds held on trust for the NHS can, with a few exceptions, be managed by any NHS body provided the terms of the trust are adhered to. This includes separate bodies of trustees, created in certain circumstances by legislation or the Secretary of State. Where the PCT has responsibility for managing funds held on trust, either as charitable funds or non charitable funds, the Board will establish a Trust and Charitable funds Committee to administer those funds in accordance with any statutory or other legal requirements and best practice required by the Charities Commission. In doing so, the Board will recognise that the establishment of a Trust and Charitable funds Committee does not alter the responsibilities of the Board, which remains the trustee as a corporate body.

The provisions of this Standing Order must be read in conjunction with Standing Order 2.9 and Standing Financial Instructions No. 28.

**4.9.5** Following approval by The PCT Board, it has been agreed that Nottinghamshire Community Health be established as an Autonomous Provider Organisation (APO). The APO will operate separately from the day-to-day operation of The PCT. The PCT Chief Executive remains the Accountable Officer while the APO Managing Director will have delegated responsibility as agreed within the statement of accountability. The Scheme of Delegation at Section C details those matters which have been delegated to Nottinghamshire Community Health.

**4.9.6 Other Committees**

The Board may also establish such other committees as required to discharge the PCT's responsibilities

**5. ARRANGEMENTS FOR THE EXERCISE OF PCT FUNCTIONS BY DELEGATION**

**5.1 Delegation of Functions to Committees, Officers or other bodies**

**5.1.1** Subject to such directions as may be given by the Secretary of State, the Board may make arrangements for the exercise, on behalf of the Board, of any of its functions by a committee, sub-committee appointed by virtue of Standing Order No. 4, or by an officer of the PCT, or by another body as defined in Standing Order 5.1.2 below, in each case subject to such restrictions and conditions as the PCT thinks fit.

- 5.1.2 Section 16B of the NHS Act 1977 allows for regulations to provide for the functions of PCTs to be carried out by third parties. In accordance with The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2003 the functions of the PCT may also be carried out in the following ways:
- (i) by another PCT;
  - (ii) jointly with any one or more of the following: Strategic Health Authorities, NHS trusts and other PCTs;
  - (iii) by a Special Health Authority (SpHA) or by a committee, sub-committee or officer of a SpHA;
  - (iv) by arrangement with the appropriate Strategic Health Authority or PCT, by a joint committee or joint sub-committee of the PCT and one or more other health service bodies;
  - (v) in relation to arrangements made under S63(1) of the Health Services and Public Health Act 1968, jointly with one or more Strategic Health Authorities, SpHAs, NHS Trusts or other PCTs.
- 5.1.3 Where a function is delegated by these Regulations to another PCT or SpHA, then that PCT or SpHA exercises the function in its own right; the receiving PCT has responsibility to ensure that the proper delegation of the function is in place. In other situations, i.e. delegation to committees, sub committees or officers, the PCT delegating the function retains full responsibility.
- 5.1.4 In accordance with the standing order allowing the PCT to delegate functions to be carried out by a third party, The PCT delegates to the East Midlands Specialised Commissioning Group those functions set out in the East Midlands SCG's Establishment Agreement. Those functions delegated to the East Midlands SCG but not reserved by the Specialised Commissioning Group shall be exercised on behalf of the Specialised Commissioning Group by its Chair, Director or other nominated officer as set out in the SCG's Scheme of Reservation and Delegation.
- 5.2 **Emergency Powers and urgent decisions**
- The powers which the Board has reserved to itself within these Standing Orders (see Standing Order 2.9) may in emergency or for an urgent decision be exercised by the Chief Executive and the Chairman after having consulted at least two non-officer members. The exercise of such powers by the Chief Executive and Chairman shall be reported to the next formal meeting of the PCT Board in public session for formal ratification.
- 5.3 **Delegation to Committees**
- 5.3.1 The Board shall agree from time to time to the delegation of executive powers to be exercised by the Professional Executive Committee, other committees, or sub-committees, or joint-committees, which it has formally constituted in accordance with directions issued by the Secretary of State or the Strategic Health Authority. The constitution and terms of reference of these committees, or sub-committees, or joint committees, and their specific executive powers shall be approved by the Board or by the Professional Executive Committee in respect of its sub-committees.
- 5.3.2 When the Board is not meeting as the PCT in public session it shall operate as a committee and may only exercise such powers as may have been delegated to it by the PCT in public session.
- 5.4 **Delegation to Officers**
- 5.4.1 Those functions of the PCT which have not been retained as reserved by the Board or delegated to the Professional Executive Committee, other committee or sub-committee or joint-committee shall be exercised on behalf of the PCT by the Chief

Executive. The Chief Executive shall determine which functions he/she will perform personally and shall nominate officers to undertake the remaining functions for which he/she will still retain accountability to the PCT.

5.4.2 The Chief Executive shall prepare a Scheme of Delegation identifying his/her proposals which shall be considered and approved by the Board. The Chief Executive may periodically propose amendment to the Scheme of Delegation which shall be considered and approved by the Board.

5.4.3 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the Director of Finance to provide information and advise the Board in accordance with statutory or Department of Health requirements. Outside these statutory requirements the roles of the Director of Finance shall be accountable to the Chief Executive for operational matters.

## **5.5 Schedule of Matters Reserved to the Board and Scheme of Delegation of powers**

5.5.1 The arrangements made by the Board as set out in the "Schedule of Matters Reserved to the Board" and "Scheme of Delegation" of powers shall have effect as if incorporated in these Standing Orders.

## **5.6 Duty to report non-compliance with Standing Orders and Standing Financial Instructions**

If for any reason these Standing Orders are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance, shall be reported to the next formal meeting of the Professional Executive Committee and the Board for action or ratification. All members of the PCT Board and Professional Executive Committee and staff have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive as soon as possible.

## **6. OVERLAP WITH OTHER PCT POLICY STATEMENTS/PROCEDURES, REGULATIONS AND THE STANDING FINANCIAL INSTRUCTIONS**

### **6.1 Policy statements: general principles**

The PCT Board will from time to time agree and approve Policy statements/procedures which will apply to all or specific groups of staff employed by the PCT. The decisions to approve such policies and procedures will be recorded in an appropriate PCT Board minute and will be deemed where appropriate to be an integral part of the PCT's Standing Orders and Standing Financial Instructions.

### **6.2 Specific Policy statements**

Notwithstanding the application of SO No. 6.1 above, these Standing Orders and Standing Financial Instructions must be read in conjunction with the following Policy statements:

- The Standards of Business Conduct and Conflicts of Interest Policy for Nottinghamshire County Primary Care Trust staff;
- Code of Conduct for NHS Managers 2002;
- ABPI Code of Professional Conduct relating to hospitality/gifts from pharmaceutical/external industry;
- The staff Disciplinary and Appeals Procedures adopted by the PCT both of which shall have effect as if incorporated in these Standing Orders.

**6.3 Standing Financial Instructions**

Standing Financial Instructions adopted by the PCT Board in accordance with the Financial Regulations shall have effect as if incorporated in these Standing Orders.

**6.4 Specific guidance**

Notwithstanding the application of SO No. 6.1 above, these Standing Orders and Standing Financial Instructions must be read in conjunction with the following guidance and any other issued by the Secretary of State for Health:

- Caldicott Guardian 1997;
- Human Rights Act 1998;
- Freedom of Information Act 2000.

**7. DUTIES AND OBLIGATIONS OF BOARD MEMBERS/DIRECTORS AND SENIOR MANAGERS UNDER THESE STANDING ORDERS**

**7.1 Declaration of Interests**

**7.1.1 Requirements for Declaring Interests and applicability to Board and Professional Executive Committee Members**

i) The NHS Code of Accountability requires PCT Board members and Professional Executive Committee members to declare interests which are relevant and material to the NHS Board of which they are a member. All existing Board members should declare such interests. Any Board members appointed subsequently should do so on appointment. References here to Board members shall mean both PCT Board members and Professional Executive Committee members.

**7.1.2 Interests which are relevant and material**

- (i) Interests which should be regarded as "relevant and material" are:
  - a) Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies);
  - b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
  - c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
  - d) A position of authority in a charity or voluntary organisation in the field of health and social care;
  - e) Any connection with a voluntary or other organisation contracting for NHS services.
  - f) Research funding/grants that may be received by an individual or their department;
  - g) Interests in pooled funds that are under separate management (any relevant company included in this fund that has a potential relationship with the PCT must be declared);
  - h) Practice Based Commissioning (see para 18.3 of the SFIs).
  - i) Formal interest with a position of influence in a political party or organization.

**7.1.2ii Any Member of the PCT Board or Professional Executive Committee who comes to know that the PCT has entered into or proposes to enter into a contract in which he or**



any person connected with her/him (as defined in Standing Order 7.3 below and elsewhere) has any pecuniary interest, direct or indirect, the Board member or Professional Executive Committee member shall declare his/her interest by giving notice in writing of such fact to the PCT as soon as practicable.

**7.1.3 Advice on Interests**

If Board or Executive Committee members have any doubt about the relevance of an interest, this should be discussed with the Chairman of the PCT or the Chairman of the Professional Executive Committee as appropriate, or with the PCT's Company Secretary.

International Accounting Standard 24 – Related Party Disclosures (issued by the International Accounting Standards Board “IASB” specifies that influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.

**7.1.4 Recording of Interests in PCT Board and Professional Executive Committee minutes**

At the time Board members' interests are declared, they should be recorded in the PCT Board minutes or in the case of the Professional Executive Committee in the Professional Executive Committee minutes. Where interests are declared to the Professional Executive Committee these should be formally reported to the PCT Board at the earliest opportunity.

Any changes in interests should be declared at the next PCT Board meeting or Professional Executive Committee meeting following the change occurring and recorded in the minutes of that meeting.

**7.1.5 Publication of declared interests in Annual Report**

Board members' and Professional Executive Committee Members, Directorships of companies likely or possibly seeking to do business with the NHS should be published in the PCT's annual report. The information should be kept up to date for inclusion in succeeding annual reports.

**7.1.6 Conflicts of interest which arise during the course of a meeting**

During the course of a PCT Board meeting or a Professional Executive Committee meeting, if a conflict of interest is established, the Board or Professional Executive Committee Member concerned should withdraw from the meeting and play no part in the relevant discussion or decision. (See overlap with SO 7.3)

**7.2 Register of Interests**

**7.2.1** The Chief Executive will ensure that a Register of Interests is established to record formally declarations of interests of Board or Professional Executive Committee members. In particular the Register will include details of all Directorships and other relevant and material interests (as defined in SO 7.1.2) which have been declared by both executive and non-executive PCT Board Members and Professional Executive Committee members.

**7.2.2.** These details will be kept up to date by means of an annual review of the Register in which any changes to interests declared during the preceding twelve months will be incorporated.

**7.2.3** The Register will be available to the public and the Chief Executive will take reasonable steps to bring the existence of the Register to the attention of local residents and to publicise arrangements for viewing it.

**7.3 Exclusion of Chairman and Members in proceedings on account of pecuniary interest**

**7.3.1 Interpretation of 'Pecuniary' interest**

For the sake of clarity in interpreting this Standing Order:

- (i) "spouse" shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse);
- (ii) "contract" shall include any proposed contract or other course of dealing;
- (iii) subject to the exceptions set out in this Standing Order, a person shall be treated as having an indirect pecuniary interest in a contract if:-
  - a) he/she, or a nominee of his/her, is a member of a company or other body (not being a public body), with which the contract is made, or to be made or which has a direct pecuniary interest in the same, or
  - b) he/she is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.
- iv) a person shall not be regarded as having a pecuniary interest in any contract if:-
  - a) neither he/she or any person connected with him/her has any beneficial interest in the securities of a company of which he/she or such person appears as a member, or
  - b) any interest that he/she or any person connected with him/her may have in the contract is so remote or insignificant that it cannot reasonably be regarded as likely to influence him/her in relation to considering or voting on that contract, or
  - c) those securities of any company in which he/her (or any person connected with him/her) has a beneficial interest do not exceed £10,000 in nominal value or one per cent of the total issued share capital of the company or of the relevant class of such capital, whichever is the less.

Provided however, that where paragraph (c) above applies the person shall nevertheless be obliged to disclose/declare their interest in accordance with Standing Order 7.1.2 (ii).

**7.3.2 Exclusion in proceedings of the PCT Board or Professional Executive Committee**

- (i) Subject to the following provisions of this Standing Order, if the Chairman or a member of the PCT Board, or Chairman of the Professional Executive Committee or member of the Professional Executive Committee has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the PCT Board or Professional Executive Committee at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- (ii) The Secretary of State may, subject to such conditions as he/she may think fit to impose, remove any disability imposed by this Standing Order in any case in which it appears to him/her in the interests of the National Health Service that the disability should be removed. (See SO 7.3.3 on the 'Waiver' which has been approved by the Secretary of State for Health).

- (iii) The PCT Board may exclude the Chairman or a member of the Board from a meeting of the Board while any contract, proposed contract or other matter in which he/she has a pecuniary interest is under consideration. The Professional Executive Committee may take the same action in relation to the Professional Executive Committee Chairman or Professional Executive Committee Members.
- (iv) Any remuneration, compensation or allowance payable to the Chairman or a member by virtue of paragraph 11 of Schedule 5A to the National Health Service Act 1977 (pay and allowances) shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- (v) This Standing Order applies to a committee (including the Professional Executive Committee) or sub-committee and to a joint committee or sub-committee as it applies to the PCT and applies to a member of any such committee or sub-committee (whether or not he is also a member of the PCT) as it applies to a Member of the PCT.

### **7.3.3 Waiver of Standing Orders made by the Secretary of State of Health**

#### **(1) Power of the Secretary of State to make waivers**

Under regulation 11(2) (repeated in SO 7.2 above) of the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000 ("the Regulations") as amended by the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No.2) (England) Regulations 2002, and the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (England) Regulations 2003 it appears to the Secretary of State in the interests of the health service that the disability in regulation 11 (which prevents a chairman or a member from taking part in the consideration or discussion of, or voting on any question with respect to, a matter in which he has a pecuniary interest) is removed. A waiver has been agreed in line with sub-sections (2) to (4) below.

#### **(2) Definition of 'Chairman' for the purpose of interpreting this waiver**

For the purposes of paragraph 7.3.3. (3) (below), the "relevant chairman" is–

- (a) at a meeting of the PCT, the Chairman of that PCT;
- (b) at a meeting of the Professional Executive Committee–
  - (i) in a case where the member in question is the Chairman of that Committee, the Chairman of the PCT;
  - (ii) in the case of any other member, the Chairman of that Committee.

#### **(3) Application of waiver**

A waiver will apply in relation to the disability to participate in the proceedings of the PCT or its Professional Executive Committee on account of a pecuniary interest.

It will apply to:

- (i) A member of the PCT, or the Professional Executive Committee of the PCT, who is a healthcare professional, within the meaning of regulation 5(5) of the Regulations, and who is providing or performing, or assisting in the provision or performance, of–
  - (a) services under the National Health Service Act 1977; or
  - (b) services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997;

for the benefit of persons for whom the PCT is responsible.

- (ii) Where the pecuniary interest of the member in the matter which is the subject of consideration at a meeting at which he is present:-
  - (a) arises by reason only of the member's role as such a professional providing or performing, or assisting in the provision or performance of, those services to those persons;
  - (b) has been declared by the relevant chairman as an interest which cannot reasonably be regarded as an interest more substantial than that of the majority of other persons who:-
    - (i) are members of the same profession as the member in question;
    - (ii) are providing or performing, or assisting in the provision or performance of, such of those services as he provides or performs, or assists in the provision or performance of, for the benefit of persons for whom the PCT is responsible.
- (4) Conditions which apply to the waiver and the removal of having a pecuniary interest

The removal is subject to the following conditions:

- (a) the member must disclose his/her interest as soon as practicable after the commencement of the meeting and this must be recorded in the minutes;
- (b) the relevant chairman must consult the Chief Executive before making a declaration in relation to the member in question pursuant to paragraph 7.3.3 (2) (b) above, except where that member is the Chief Executive;
- (c) in the case of a meeting of the PCT:
  - (i) the member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded; but
  - (ii) may not vote on any question with respect to it.
- (d) in the case of a meeting of the Professional Executive Committee:
  - (i) the member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded; and
  - (ii) may vote on any question with respect to it; but
  - (iii) the resolution which is subject to the vote must comprise a recommendation to, and be referred for approval by, the PCT Board.

#### **7.4 Standards of Business Conduct**

##### **7.4.1 PCT Policy and National Guidance**

All PCT staff and members of the Board must comply with the PCT's Standards of Business Conduct and Conflicts of Interest Policy and the national guidance contained in HSG (93) 5 on 'Standards of Business Conduct for NHS staff' (see SO 6.2), the Code of Conduct for NHS Managers 2002 and the ABPI Code of Professional Conduct relating to hospitality/gifts from pharmaceutical/external industry.

**7.4.2 Interest of Officers in Contracts**

- i) Any officer or employee of the PCT who comes to know that the PCT has entered into or proposes to enter into a contract in which he/she or any person connected with him/her (as defined in SO 7.3) has any pecuniary interest, direct or indirect, the Officer shall declare their interest by giving notice in writing of such fact to the Chief Executive or PCT's Company Secretary as soon as practicable.
- ii) An Officer should also declare to the Chief Executive any other employment or business or other relationship of his/her, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the PCT.
- iii) The PCT will require interests, employment or relationships so declared to be entered in a register of interests of staff.

**7.4.3 Canvassing of and Recommendations by Members in Relation to Appointments**

- i) Canvassing of members of the PCT or of any Committee of the PCT directly or indirectly for any appointment under the PCT shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.
- ii) Members of the PCT or Professional Executive Committee shall not solicit for any person any appointment under the PCT or recommend any person for such appointment; but this paragraph of this Standing Order shall not preclude a member from giving written testimonial of a candidate's ability, experience or character for submission to the PCT.
- iii) Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.

**7.4.4 Relatives of Members or Officers**

- i) Candidates for any staff appointment under the PCT shall, when making an application, disclose in writing to the PCT whether they are related to any member or the holder of any office under the PCT. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him/herself liable to instant dismissal.
- ii) The Chairman and every member and officer of the PCT shall disclose to the PCT Board any relationship between himself and a candidate of whose candidature that member or officer is aware. It shall be the duty of the Chief Executive to report to the PCT Board any such disclosure made.
- iii) On appointment, members (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the PCT whether they are related to any other member or holder of any office under the PCT.
- iv) Where the relationship to a member of the PCT is disclosed, the Standing Order headed 'Disability of Chairman and members in proceedings on account of pecuniary interest' (SO 7) shall apply.

**8. CUSTODY OF SEAL, SEALING OF DOCUMENTS AND SIGNATURE OF DOCUMENTS**

**8.1 Custody of Seal**

The common seal of the PCT shall be kept by the Company Secretary in a secure place.

## **8.2 Sealing of Documents**

Where it is necessary that a document shall be sealed, the seal shall be affixed in the presence of an Executive Director and one other Senior Manager duly authorised by the Chief Executive, and not also from the originating department, and shall be attested by them.

## **8.3 Register of Sealing**

The Chief Executive shall keep a register in which he/she, or another manager of the PCT authorised by him/her, shall enter a record of the sealing of every document.

## **8.4 Use of Seal – General guide**

A seal would normally need to be applied on the following types of document:

- the transfer deed for a purchase or sale of freehold land or lease
- a lease
- a licence or deed which is supplemental to a lease, for example licences to carry out works, licences to assign, licences to underlet, a surrender of a lease
- other miscellaneous deeds including planning agreements such as Section 106 Agreements, Deeds of Guarantee and Deeds of Easements (rights)
- a construction contract and/or collateral warranty.

## **8.5 Signature of documents**

Where any document will be a necessary step in legal proceedings on behalf of the PCT, it shall, unless any enactment otherwise requires or authorises, be signed by the Chief Executive or any Executive Director.

In land transactions, the signing of certain supporting documents will be delegated to Managers and set out clearly in the Scheme of Delegation but will not include the main or principal documents effecting the transfer (e.g. sale/purchase agreement, lease, contracts for construction works and main warranty agreements or any document which is required to be executed as a deed).

# **9. MISCELLANEOUS (see overlap with SFI No. 21.3)**

## **9.1 Joint Finance Arrangements**

The Board may confirm contracts to purchase from a voluntary organisation or a local authority using its powers under Section 28A of the NHS Act 1977. The Board may confirm contracts to transfer money from the NHS to the voluntary sector or the health related functions of local authorities where such a transfer is to fund services to improve the health of the local population more effectively than equivalent expenditure on NHS services, using its powers under Section 28A of the NHS Act 1977, as amended by section 29 of the Health Act 1999.

See overlap with Standing Financial Instruction No. 21.3.

***Section C – Schedule of Matters Reserved to the Board and  
Detailed Scheme of Delegation***

## DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES

COMMITTEE	DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES AND BY THE EXECUTIVE COMMITTEE TO ITS SUB COMMITTEES
AUDIT COMMITTEE	<p><b>Governance, risk management and internal control</b></p> <p>The committee will review the adequacy of:</p> <ul style="list-style-type: none"> <li>• all risk and control related disclosure statements (in particular the Statement on Internal Control and declarations of compliance with the Standards for Better Health), together with any accompanying Head of Internal Audit statement, external audit opinion or other appropriate independent assurances, prior to endorsement by the Board</li> <li>• the underlying assurance processes that indicate the degree of the achievement of corporate objectives, the effectiveness of the management of principal risks and the appropriateness of the above disclosure statements</li> <li>• the policies for ensuring compliance with relevant regulatory, legal and code of conduct requirements</li> <li>• the policies and procedures for all work related to fraud and corruption as set out in Secretary of State Directions and as required by the Counter Fraud and Security Management Service</li> </ul> <p><b>Internal audit</b></p> <p>The committee will ensure there is an effective internal audit function through:</p> <ul style="list-style-type: none"> <li>• consideration of the provision of the Internal Audit service, the cost of the audit and any questions of resignation and dismissal</li> <li>• review and approval of the Internal Audit strategy, operational plan and more detailed programme of work, ensuring that this is consistent with the audit needs of the organisation as identified in the Assurance Framework</li> <li>• consideration of the major findings of internal audit work (and management's response), and ensure co-ordination between the Internal and External Auditors to optimise audit resources</li> <li>• ensuring that the Internal Audit function is adequately resourced and has appropriate standing with the organisation</li> <li>• annual review of the effectiveness of internal audit</li> </ul> <p><b>external audit</b></p>



COMMITTEE	DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES AND BY THE EXECUTIVE COMMITTEE TO ITS SUB COMMITTEES
	<p>The committee shall review the work and findings of the External Auditor appointed by the Audit Commission and consider the implications and management's responses to their work through:</p> <ul style="list-style-type: none"> <li>• consideration of the appointment and performance of the External Auditor, as far as the Audit Commission's rules permit</li> <li>• discussion and agreement with the External Auditor, before the audit commences, of the nature and scope of the audit as set out in the Annual Plan, and ensure coordination, as appropriate, with other External Auditors in the local health economy</li> <li>• discussion with the External Auditors of their local evaluation of audit risks and assessment of the PCT and associated impact on the audit fee</li> <li>• review all External Audit reports, including agreement of the annual audit letter before submission to the Board and any work carried outside the annual audit plan, together with the appropriateness of management responses</li> </ul> <p><b>financial reporting</b></p> <p>The committee shall review the Annual Report and Financial Statements before submission to the Board.</p>
GOVERNANCE COMMITTEE	<p>The Committee will:</p> <ul style="list-style-type: none"> <li>• provide assurance to the PCT Board on the development and delivery of the following strategies: <ul style="list-style-type: none"> <li>▪ Patient Safety</li> <li>▪ Risk Management</li> <li>▪ Research and Evaluation</li> <li>▪ Information Governance</li> <li>▪ Patient and Public Engagement</li> </ul> </li> <li>• oversee achievement of the Annual Health Check, including advice to the Board on remedial measures as required.</li> <li>• provide assurance to the Board on compliance with health and safety legislation and good practice.</li> </ul>

COMMITTEE	DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES AND BY THE EXECUTIVE COMMITTEE TO ITS SUB COMMITTEES
	<ul style="list-style-type: none"> <li>• provide the Board with assurance that significant risks to the organisation's strategic objectives are being appropriately managed together with advice on required additional interventions, when appropriate, through the Assurance Framework.</li> <li>• provide specialist advice on the implications of national guidance relating to quality, governance and or safety.</li> <li>• Oversee external assessments in relation to quality and patient safety, including Care Quality Commission reviews, NHS Litigation Authority and Standards for Better Health.</li> <li>• ensure there are robust systems in place for the development, management and application of PCT strategies and policies, providing advice to the Board on ratification and adoption.</li> <li>• identify and report key performance indicators that demonstrate both effective systems are in place to discharge the committee's responsibilities</li> <li>• oversee the work of the sub-committees and working groups, ensuring that they remain fit for purpose</li> <li>• Receive assurances on Nottinghamshire Community Health, Nottingham University Hospitals, Sherwood Forest Hospitals Foundation Trust and Nottinghamshire Healthcare Trust delivery of quality as defined in contracts, providing advice to the Board on the assurance gained.</li> </ul>

## SECTION C – SCHEDULE OF MATTERS RESERVED TO THE BOARD AND DETAILED SCHEME OF DELEGATION

Delegated matters in respect of decisions that may have a far-reaching effect must be reported to the Chief Executive. The delegation shown below is the lowest level to which authority is delegated. Delegation to lower levels is only permitted with written approval of the Chief Executive who will, before authorising such delegation, consult with other Senior Officers as appropriate. All items concerning Finance must be carried out in accordance with Standing Financial Instructions and Standing Orders.

In the absence of the Chief Executive, the Deputy Chief Executive holds full authority for all Chief Executive delegations listed below.

In the absence of the Director of Finance, the Deputy Director of Finance holds full authority for all Director of Finance delegations listed below.

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
1. Management of Budgets (Responsibility for keeping Pay and Non-pay expenditure within approved budgets and retaining income levels)				
Approval of Budgets	Matter Reserved to the Board (normally at the March Board Meeting), approve the overall resources and detailed budgets	APO Managing Board	SO Section 5: Arrangements for the Exercise of Functions by Delegation	
Delegation to the Budget Holder	Chief Executive or nominated deputy.	Not Delegated	SFI Section 13: Allocations, Local Delivery Plans, Budgets, and Monitoring Budgetary Control	
Delegation to the Budget Manager/Budget Monitor	Budget Holder (PCT Director)	APO Managing Director	Budgetary Control Framework	
<i>Approval to Spend</i>		APO Budget		

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
	Budget Holder/Manager/Monitor is permitted to incur costs in accordance with their budgets and authorisation limits	Holder/Manager/Monitor in accordance with their budgets and authorisation limits.		
Monitoring of Financial Performance	Executive Director of Finance and Performance or Associate Director of Finance	Monitoring of Financial Performance in line with agreed balanced budget - APO Managing Director and APO Assistant Director of Finance		
Delegated Virement Limits	Virements within a budget holders approved budget are permitted in accordance with virement rules. Staff establishment changes – Appropriate Director	Virements within a budget holders approved budget are permitted in accordance with virement rules and the Budgetary Control Framework. Staff establishment changes – APO Managing Director.		
Approval of Overspends or Reductions in Income that cannot be met by Virement	Financial consequences – Executive Director of Finance and Performance or Associate Director of Finance	Financial consequences – APO Managing Director or APO Assistant Director of Finance		
Maintenance / Operation of Bank Accounts	Matter reserved to the Board	Not Delegated		
Opening of new PGO Bank Accounts	Approved by the Executive Director of Finance and Performance or Associate Director of Finance and reported to the next Board Meeting.	Not Delegated	SFI Section 15: Bank and OPG Accounts	

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
Notification of change to banking arrangements, with the exception of changes in signatories	Approved by the Executive Director of Finance and Performance or Associate Director of Finance and reported to the next Board Meeting.	Not Delegated	Cash Management Procedures	
Banking procedures	The Executive Director of Finance and Performance or Associate Director of Finance.	Not Delegated		
3. Non Pay Revenue and Capital Expenditure/Requisitioning/ Ordering  (a) <i>Revenue</i> Delegated limits for Exchequer Funds (All values are inclusive of VAT irrespective of whether this is reclaimable or not) Above £500,000	Matter reserved to the Board - Formal Tender Required Chief Executive or Executive Director of Finance and Performance or Associate Director of Finance - Formal Tender Required	Not Delegated	SO Section 5: Arrangements for the Exercise of Functions by Delegation SFI Section 17: Tendering and Contract Procedure  SFI Section 21: Non-Pay Expenditure Section 23: Capital Investment, Private Financing, Fixed Asset Registers and Security of Assets	
Up to £500,000	Executive Directors or - Formal Tender Required	Not Delegated		
Up to £250,000	Other Deputies or Assistant Directors - Formal	APO Managing Director	Budgetary Control Framework	

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
Up to £50,000	Quotations Required	Assistant Directors		
Up to £10,000	Budget Managers	Budget Managers		
Up to £1,000	Supervisory Staff and Junior Management (In line with any budget management responsibilities)	Supervisory Staff and Junior Management (In line with any budget management responsibilities)		
(b) Capital				
Annual Capital Plan	Matter Reserved to the Board	Not Delegated		
Including Schemes valued at: Above £100m	HM Treasury Approval required (submission to HM Treasury is a matter reserved for the Board)	Not Delegated		
Above £35m	Department of Health Approval	Not Delegated		
Above £3m	NHS East Midlands approval	Not Delegated		
Up to £3m	The Board	Not Delegated		
(c) Procurement of Professional Services				
Legal Advice	Chief Executive or nominated deputy or Director of Workforce and Corporate Services	APO Managing Director or Assistant Director of Finance within delegated budget limits.	SO Section 5.1: Delegation of functions to Other Bodies	

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
Specialist Advice eg IT, clinical enquiries Special Projects eg specific reviews:	Chief Executive or nominated deputy	APO Managing Director or Assistant Director of Finance within authorised limits.		
Up to £50,000	Executive Director	Not Delegated		
Above £50,000	Chief Executive or nominated deputy	Not Delegated		
Note that additional control is exercised over the procurement of professional services due to the need to closely monitor Management costs.				
(d) Specialised Commissioning Services	The Director of Public Health as a member of the East Midlands Specialised Commissioning Group (Hosted by Leicestershire County and Rutland City PCT – reviewed annually)	Not Delegated		
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**Comment [N1]:** Not sure what the reference to the board resolution means

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
4. Capital Schemes and Management of Approved List of Contractors				
Approval of Capital Programme	Matter reserved to the Board	APO Managing Board and Capital Projects Board within budget delegated by PCT Board	SFI Section 23: Capital Investment, Private Financing, Fixed Asset Registers and Security of Assets	
Financial monitoring and reporting on all capital scheme expenditure	Executive Director of Finance and Performance or Associate Director of Finance.	APO Managing Director	SFI Section 17: Tendering and Contract Procedure	
c) Granting and termination of leases with annual rent <£50k	Chief Executive and Executive Director of Finance and Performance or Associate Director of Finance .	APO Managing Director	SFI Section 30: Payments to Independent Contractors	
d) To maintain and regularly review a list of contractors suitable for undertaking building and engineering works	Assistant Chief Executive or nominated deputy through SLA Nottinghamshire Healthcare Estates Department	APO Managing Director		
e) Review periodically the selection of contractors invited to tender.	Assistant Chief Executive	APO Managing Director		
f) Review periodically the incidence of awards to particular contractors.	Assistant Chief Executive	APO Managing Director		



DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
<p>5. Quotation, Tendering &amp; Contract Procedures</p> <p>a) Obtaining at least 3 written quotations for goods/services from £10,000 to £49,999</p> <p>b) Obtaining at least 3 written competitive tenders for goods/ services:</p> <p>in excess of £500,000</p> <p>£250,000 to £500,000</p> <p>£50,000 to £250,000</p> <p><u>Responsibilities in the Tendering Process:</u></p> <p>Issuing of tender documentation</p> <p><i>Receipt and custody of tender documentation</i></p> <p>Opening of Tenders</p>	<p>Authorised by the Executive Director of Finance and Performance or Associate Director of Finance</p> <p>Matter reserved to the Board</p> <p>Chief Executive or Executive Director of Finance and Performance, Associate Director of Finance</p> <p>Executive Directors</p> <p>Chief Executive</p> <p>Company Secretary</p> <p>‘2 senior managers, Band 8 and above, designated by the Chief Executive and not from the originating department.</p> <p>At least three of the lowest (highest if sale) tenders shall be informed that the PCT Board wishes to</p>	<p>Authorised by the APO Managing Director of APO Assistant Director of Finance</p> <p>Not Delegated</p> <p>APO Managing Director</p> <p>APO Managing Director</p> <p>APO Managing Director</p> <p>APO Managing Director or nominated representative</p> <p>2 senior managers, Band 8 and above, designated by the APO Managing Director</p> <p>An APO Board member</p>	SFI Section 17: Tendering and Contract Procedure	

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
Post tender negotiation	enter into post offer negotiations. Each of the offerors shall be invited to attend a separate meeting at the PCT Headquarters.	An APO Officer		
Acceptance of tender other than lowest.	Negotiation with each offeror may continue over a series of meetings and the offeror, in writing, shall confirm any amendments finally negotiated. All acceptances must be signed off by the Executive Director of Finance and Performance or Associate Director of Finance.	Not Delegated		
Single Quote Authorisations	Chief Executive or nominated deputy (reported to the PCT Audit Committee). Reasons for acceptance set out in a permanent record.	APO Managing Director or nominated deputy (reported to the PCT Associate Director of Finance for onward reporting to the Audit Committee).		
Single Tender Authorisations	Chief Executive or Executive Director of Finance and Performance or Associate Director of Finance. Where only one quote is sought/received the Trust shall as far as practical, determine that the price to be paid is fair and reasonable and details of the investigation recorded.	Not Delegated		
Waiving of quotations/tenders subject to SO's	Chief Executive or Executive Director of Finance and Performance or Associate Director of Finance . Where only one tender is sought/received the Trust shall as far as practical, determine that the price to be paid is fair and reasonable and details of the investigation recorded Chief Executive or Executive Director of Finance and Performance or Associate Director of Finance with delegated responsibility (to be reported quarterly to the Audit Committee)	Not Delegated		

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
<p>6. Setting of Fees and Charges</p> <p>Provision of annual set of contract costs for clinical and non-clinical services prices in compliance with timetable laid down by the NHSE.</p> <p>Other Fees and Charges Board and Lodgings Rent for Properties Telephone rental and call charges for private use Private use of NHS equipment and facilities (eg photocopying, rooms) Course fees</p>	<p>Executive Director of Finance and Performance or Associate Director of Finance.</p> <p>Executive Director of Finance and Performance or Associate Director of Finance.</p>	<p>APO Assistant Director of Finance in discussion with PCT Associate Director of Finance</p> <p>Assistant Director of Finance</p>	SFI Section 16: Income, Fees and Charges and Security of Cash, Cheques and Other Negotiable Instruments	
<p>7. Engagement of Staff Not On the Establishment</p> <p>a) Non Medical Consultancy Staff Where aggregate commitment in any one year (or total commitment) is less than £20,000</p> <p>b) Where aggregate commitment in any one year is more than £20,000</p>	<p>Executive Director of Finance and Performance or Associate Director of Finance</p> <p>Chief Executive and Executive Director of Finance or Associate Director of Finance .</p>	<p>Not Delegated</p> <p>Not Delegated</p>	SFI Section 20: Terms of Service, Allowances and Payment of Members of the PCT Board and Executive Committee and Employees	

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
c) Engagement of Trust's Solicitors	Chief Executive or nominated deputy in conjunction with the Company Secretary.	APO Managing Director or nominated deputy in conjunction with the Assistant Chief Executive.		
d) Booking of bank staff from approved lists	Heads of Department and General Managers	Heads of Department and General Managers		
e) Booking of Agency Staff	Hiring of Agency Staff must be in accordance with the delegated authority by the Chief Executive and only then within the limit of his/her budget and financed establishment	Hiring of Agency Staff must be in accordance with the delegated authority by the APO Managing Director and only within the limit of budget.		
8. Charitable Funds (All values are inclusive of Vat irrespective of whether this is reclaimable or not)				
a) Expenditure: Up to £1,000	Fund Holder approval	Fund Holder approval	SO Section 5: Arrangements for the Exercise of Functions by Delegation	
£1,001 and above	Executive Director of Finance and Performance or Associate Director of Finance.  Where a purchase proposed by one fund has an impact upon the services of another area, then the latter will need to be made aware of the intended	APO Managing Director  Where a purchase proposed by one fund has an impact upon the services of another area,	SFI Section 28: Funds Held on Trust	

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
Maintenance of financial records	<p>purchase and be given the opportunity to identify any consequential implications. Any financial implications for the other area will have to be resolved before the proposed purchase is allowed to proceed.</p> <p>The extent of delegation to any fund holders will be reviewed annually by the Chief Executive or nominated deputy and approved by the Trust Board.</p> <p>No fund holder has the power to delegate responsibility to any other officer.</p> <p>Executive Director of Finance and Performance or Associate Director of Finance through SLA with Nottinghamshire Healthcare NHS Trust and Nottingham University Hospital s NHS Trust</p>	<p>then the latter will need to be made aware of the intended purchase and be given the opportunity to identify any consequential implications. Any financial implications for the other area will have to be resolved before the proposed purchase is allowed to proceed.</p> <p>The extent of delegation to any fund holders will be reviewed annually by the Chief Executive or nominated deputy and approved by the Trust Board.</p> <p>No fund holder has the power to delegate responsibility to any other officer.</p> <p>The APO Managing director or APO Assistant Director of Finance through SLA with Nottinghamshire Healthcare NHS Trust and Nottingham University Hospital s NHS Trust</p>		

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
<p>9. Agreements/Licences</p> <p>a) Preparation and signature of all tenancy agreements/licences for all staff subject to Trust Policy on accommodation for staff</p> <p>b) Extensions to existing leases</p> <p>c) Letting of premises to outside organisations</p> <p>d) Approval of rent calculation</p>	<p>Executive Director of Finance and Performance or Associate Director of Finance.</p> <p>Assistant Chief Executive</p> <p>Assistant Chief Executive</p> <p>Executive Director of Finance and Performance or Associate Director of Finance.</p>	<p>APO Assistant Director of Finance or nominated deputy</p> <p>APO Managing Director</p> <p>APO Managing Director</p> <p>APO Assistant Director of Finance</p>		
<p>10. Condemning &amp; Disposal</p> <p>a) Items obsolete, obsolescent, redundant, irreparable or cannot be repaired cost effectively</p> <p>i) with current purchase price totalling &lt;£250</p> <p>ii) with current purchase price totalling &gt;£250</p>	<p>Head of Department</p> <p>Executive Director of Finance and Performance or Associate Director of Finance.</p>	<p>Head of Department</p> <p>APO Assistant Director of Finance or nominated deputy</p>	SFI Section 25: Disposals and Condemnations, Losses and Special Payments	

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
iii) disposal of mechanical and engineering plant :	Executive Director of Finance and Performance or Associate Director of Finance through SLA with Nottinghamshire Healthcare Estates Department	APO Managing Director and APO Assistant Director of Finance		
b) Sale of land not exceeding £500,000 in value	Chief Executive and Executive Director of Finance and Performance or Associate Director of Finance or nominated deputies.	Not Delegated		
c) Sale of land exceeding £500,000 in value	The Board	Not Delegated		
11. Losses, Write-off & Compensation			SFI Section 25: Disposals and Condemnations, Losses and Special Payments	
Losses and Cash due to theft, fraud, overpayment & others	Audit Committee	Not Delegated		
b) Fruitless Payments (including abandoned Capital Schemes)	Audit Committee	Not Delegated		
c) Bad Debts and Claims Abandoned. Private Patients, Overseas Visitors & Other	Audit Committee	Not Delegated		
d) Damage to buildings, fittings, furniture and equipment and loss of equipment and property in stores and in use due to culpable and other causes	Audit Committee	Not Delegated		



DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
e) Compensation payments made under legal obligation (Full amount)	Audit Committee	Not Delegated		
f) Extra Contractual payments to contractors	Audit Committee	Not Delegated		
g) Patients and staff for loss of personal effects(Ex Gratia Payments)	Executive Director of Finance and Performance or Associate Director of Finance (reported to the Audit Committee)	For less than £5,000, APO Assistant Director of Finance (reported to PCT Associate Director of Finance). Greater than £5,000- Not Delegated.		
h) Clinical Negligence (below Trust's CNST excess)	Executive Director of Finance and Performance or Associate Director of Finance (reported to the Audit Committee)	APO Assistant Director of Finance or nominate deputy in conjunction with PCT Associate Director of Finance.		
i) For personal injury claims where legal advice has been obtained up to £1,000,000 (including plaintiff's costs)	Audit Committee	Not Delegated		
Covering other clinical negligence cases and personal injury claims	Audit Committee	Not Delegated		
For other cases, with the exception of maladministration, where there was no financial loss by the claimant up to £50,000	Executive Director of Finance and Performance or Associate Director of Finance (reported to the Audit Committee)	Not Delegated		

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
l) Write off of Non NHS Debtors	Executive Director of Finance and Performance or Associate Director of Finance reported to the Audit Committee for information	Not Delegated		
m) Monitoring and Recording of Losses	Associate Director of Finance	APO Assistant Director of Finance and reported to PCT Associate Director Finance		
n) Notification to Internal and External Audit, Local Counter fraud Service and Local Security Management Services and Police where appropriate, of thefts and fraud.	In accordance with PCT Counter Fraud Policy	In accordance with PCT Counter Fraud Policy		
12. Reporting of Incidents to the Police				
a) Where a criminal offence is suspected				
i) criminal offence of a violent nature	Service Manager/On-call Manager together with On-call Director.	Service Manager/On-call Manager together with On-call Director.		
ii) other	Chief Executive or nominated deputy.	APO Managing Director or nominated deputy		
b) Where a fraud is involved	In accordance with the PCT Counter Fraud Policy	In accordance with the PCT Counter Fraud Policy		

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
13. Petty Cash Disbursements (not applicable to central Cashiers Office)			SFI Section 16: Income, Fees and Charges and Security of Cash, Cheques and other Negotiable Instruments	
a) Expenditure up to £25 per item	Budget Holder	Budget Holder		
b) Expenditure over £25 per item	Senior Managers/Directors	Senior Managers/Directors		
14. Implementation of Internal and External Audit Recommendations	Actioning officer as specified in individual audit reports. Overseen by Executive Director of Finance and Performance or Associate Director of Finance or nominated deputy, reports to Audit Committee	Actioning officer as specified in individual audit reports. Overseen by APO Associate Director of Finance or nominated deputy, reports to Associate Director of Finance.		
15. Maintenance & Update on Trust Financial Procedures	Executive Director of Finance and Performance or Associate Director of Finance.	Not Delegated		
16. Investment of Funds (including Charitable & Endowment Funds)	Executive Director of Finance and Performance or Associate Director of Finance.	Not Delegated		

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
17. Personnel & Pay				
a) Authority to appoint staff to post not on the formal establishment.	Chief Executive and Executive Director of Finance and Performance or Associate Director of Finance .	APO Managing Director and APO Assistant Director of Finance.	SFI Section 20: Terms of Service and Payment of Directors and Employees	
b) <u>Establishments</u>				
i) Additional staff to the agreed establishment with specifically allocated finance.	Budget holder within overall financial budget	Budget holder within overall financial budget		
ii) Additional staff to the agreed establishment without specifically allocated finance.	Chief Executive or Executive Director of Finance and Performance or Associate Director of Finance as delegated authority	APO Managing Director or APO Assistant Director of Finance.		
c) <u>Payroll Forms</u>				
i) Authority to complete standing data forms effecting pay, new starters, variations and leavers	General Managers, Heads of Department and nominated Deputies	General Managers, Heads of Department and nominated Deputies		
ii) Authority to authorise overtime, travel claims and study leave and associated expenses	General Managers, Heads of Department and nominated Deputies	General Managers, Heads of Department and nominated Deputies		

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
d) <u>Renewal of Fixed Term Contract</u>	Original Appointing Officer	Original Appointing Officer		
e) <u>Staff Retirement Policy</u> Authorisation of extensions of contract beyond normal retirement age in exceptional circumstances	Chief Executive or nominated deputy.	APO Managing Director or nominated deputy		
f) <u>Redundancy</u> Cases involving a former director, any costs likely to exceed £50,000 or any staff member with a salary exceeding £50,000	East Midlands Strategic Health Authority and Remuneration Committee approval required (submission reserved for the Board)	Not Delegated		
Cases not falling within the above category	Remuneration Committee	Not Delegated		
g) <u>Dismissal</u>	Chief Executive/Executive Board Members (with advice from Director of Workforce and Organisational Development)	APO Managing Director/Executive Board Members (with advice from Director of Workforce and Organisational Development)		
h) <u>Approval of Changes to Allowances Paid to Employees</u> Any allowances not included within and subject to Whitley Council Regulations	Remuneration Committee	Not Delegated		
j) <u>Removal Expenses, Excess Rent and House Purchases</u>				

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
<p>Authorisation of payment of removal expenses incurred by officers taking up new appointments (providing consideration was promised at interview) Up to £5,000</p> <p>In excess of £5,000</p> <p>k) <u>Grievance Procedure</u></p> <p>All grievances cases must be dealt with strictly in accordance with the Grievance Procedure and advice of a HR Officer must be sought when the grievance reaches the level of General Manager</p>	<p>Executive Director of Finance and Performance or Associate Director of Finance</p> <p>Chief Executive or nominated deputy.</p> <p>Department Director and HR Advisor</p>	<p>APO Assistant Director of Finance</p> <p>APO Managing Director or nominated deputy</p> <p>Department Director and HR Advisor</p>		
18. Authorisation of New Drugs	Clinical Reference Group Chair and Medical Director	Not Delegated		
<p>19. Insurance Policies and Risk Management</p> <p>Decision on what level of insurance arrangements will be maintained</p>	Executive Director of Finance and Performance or Associate Director of Finance via NHS Litigation Authority	Not Delegated		

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
Claims: Employers liability	Executive Director of Finance and Performance or Associate Director of Finance.	Not Delegated		
Other Losses	Executive Director of Finance and Performance or Associate Director of Finance.	Not Delegated		
20. Patients & Relatives Complaints				
a) Overall responsibility for ensuring that all complaints are dealt with effectively	Chief Executive or nominated deputy/Complaints Manager	APO Managing Director or nominated deputy		
b) Responsibility for ensuring complaints relating to a directorate are investigated thoroughly.	Executive Directors in conjunction with General Managers	Executive Directors in conjunction with General Managers		
c) Medico - Legal Complaints Co ordination of their management.	Director of Quality and Governance	Not Delegated		
21. Relationships with Press	Chief Executive or nominated deputy Director of Communications	APO Managing Director in conjunction with Director of Communications		

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
22. Patient Services  a) Variation of clinic sessions within existing numbers  b) All proposed changes in bed allocation and use	Chief Executive or nominated deputy.  Chief Executive or nominated deputy.	APO Managing Director or nominated deputy  APO Managing Director or nominated deputy		
23. Review of fire precautions	Director of Quality and Governance	Not Delegated		
24. Health and Safety  a) Strategy and Health and Safety Plan  b) Co-ordination of Health and Safety Plan	Chief Executive or nominated deputy.  Director of Quality and Governance	The APO will adopt the PCT policies and procedures unless otherwise agreed by the PCT Board and the APO		
25. Review of Trust's compliance with the Data Protection Act	Director of Quality and Governance	Not Delegated	SFI Section 26: Information Technology	
26. Monitor proposals for contractual arrangements between the Trust and outside	Executive Director of Finance and Performance or Associate Director of Finance.	APO Managing Director or Assistant Director of Finance		



DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
bodies				
27. Review the Trust's compliance with the Access to Records Act – Caldicott Guardian	Medical Director (Caldicott Guardian)	Not Delegated. The APO Assistant Director (Nursing and Governance) will take the role of Senior Information Risk Owner for the APO	Caldicott Recommendations	
28. <i>Review of the Trust's compliance code of Practice for handling confidential information in the contracting environment and the compliance with "safe haven" per EL 92/60</i>	Director of Quality and Governance	Not Delegated. The APO Assistant Director (Nursing and Governance) will take the role of Senior Information Risk Owner for the APO		
29. The keeping of a Declaration of Interests Register.	Company Secretary	Not Delegated	SO Section 7: Declaration of Interest and Register of Interest	
30. Attestation Register of sealings in accordance with Standing Orders	Company Secretary	Not Delegated	SO Section 8: Custody of Seal, Sealing of Documents and signature of documents.	
31. Signing of Documents  Signing of legal agreements or other documents not required to be executed as a deed.	Approved and signed by the Chief Executive (if absent by the Executive Director of Finance and Performance or Associate Director of Finance or any other Executive Director not associated with the originating department prior to sealing)	Not Delegated	SO Section 8: Custody of Seal, Sealing of Documents and signature of documents.	

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
32. The keeping of a register of Sealings	Company Secretary	Not Delegated	SO Section 8: Custody of Seal, Sealing of Documents and signature of documents.	
33. The keeping of the Hospitality Register	Company Secretary	Not Delegated		
34. Risk Management a) Clinical Governance b) Standards for Better Health	Director of Quality and Governance Director of Quality and Governance	The APO Assistant Director (Nursing and Governance) will take the role of Senior Information Risk Owner for the APO	SFI Section 32: Risk Management and Insurance	
35. <i>Management of Land, Buildings and other Assets owned or leased by the Trust:</i>  Maintenance of Asset Register  Maintaining legal documents of Title (including Leasehold)  Inventory for items less than £5,000	Executive Director of Finance and Performance or Associate Director of Finance.  Company Secretary  Heads of Department/General Managers	Not Delegated  Company Secretary  Heads of Department/General Managers	SFI Section 23: Capital Investment, Private Finance, Fixed Asset Registers and Security of Assets	

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
<p>36. Management and Control of Stocks</p> <p>Maintenance of stock levels and safe custody and notification of losses.</p> <p>Areas of substantial stockholding</p> <ul style="list-style-type: none"> <li>Estates fuel stocks</li> <li>Engineering stores</li> <li>Catering</li> <li>Pharmacy</li> </ul> <p>Reporting of stocks in the accounts</p>	<p>Each budget holder</p> <p>Through appropriate SLAs</p> <p>Executive Director of Finance and Performance or Associate Director of Finance.</p>	<p>Each budget holder</p> <p>Through appropriate SLAs</p> <p>Assistant Director of Finance</p>	<p>SFI Section23: Capital Investment, Private Financing, Fixed Asset Registers and Security of Assets</p> <p>SFI Section 24: Stores and Receipt of Goods</p>	
<p>37. Management and Control of Computer Systems and Facilities</p> <p>Patients administration system</p> <p>Finance system</p> <p>Pharmacy system</p> <p>Estates System</p>	<p>Appropriate Director</p>	<p>Appropriate Director</p>	<p>SFI Section 26: Information Technology</p>	
<p>38. Ensures organisation, directs, leads and controls its functions in order to deliver safe and high quality</p>	<p>Governance Committee</p>	<p>Not Delegated</p>		

DELEGATED MATTER	AUTHORITY DELEGATED TO	DELEGATED TO APO	REFERENCE DOCUMENTS	
systems and services				
39. Provide independent and objective view on internal control and probity	Audit committee	Not Delegated	SFI Section 11: Audit	
40. Delivery of strong and effective clinical leadership and engagement across the PCT.	Clinical reference Group Chair and Medical Director	Not Delegated		
41. <i>Advise the Board on and make recommendations on the remuneration and terms of service of senior employees.</i>	Remuneration and Terms of Service committee	Not Delegated	SFI Section 20: Terms of Service, allowances and payment of members of PCT Board and Executive Committee and employees.	
42. Services provided by the PCT, specifically in relation to the delivery and performance of community services.	Managing Board – Nottingham Community Health	APO Board		
43. Ensure compliance with S.O's and S.F.I's any instances of non compliance must be reported to the appropriate line manager.	All employees	All employees		



**SUMMARY SCHEME OF DELEGATION**

<b>AUTHORISATION LIMITS FOR EXPENDITURE</b>  <b>APPROVAL OF OFFICERS ENABLED TO REQUISITION</b> <b>GOODS AND SERVICES ON BEHALF OF THE PCT</b>			
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LEVEL	LIMIT	AUTHORISOR	AUTHORISER APO
1	Over £500,000	Chief Executive Executive Director of Finance and Performance Associate Director of Finance Assistant Directors of Finance	APO Managing Director Assistant Director of Finance
2	£500,000	Chief Executive and Executive Director of Finance and Performance and Associate Director of Finance Assistant Directors of Finance	
3	£250,000	PCT Directors	
4	£150,000	Delegation at Budget Holder discretion, subject to restrictions as shown below	
5	£100,000		
6	£75,000		
7	£50,000		
8	£25,000		
9	£15,000		
10	£10,000		
11	£5,000		
12	£1,000		
13	£500		

Delegation is at Budget Holders discretion. Delegation must be as follows

- Deputies and Assistant Directors – Levels 4 – 13
- Other Band 8s – Levels 6 - 13
- Band 7 – Levels 7 – 13

- Band 6 – Levels 9 – 13
- Band 5 – Levels 10 – 13
- Band 4 – Levels 11– 13
- Band 3 – Levels 12 -13
- Band 2 – Level 13

**PLEASE NOTE:**

## SECTION D - STANDING FINANCIAL INSTRUCTIONS

### 10. INTRODUCTION

#### 10.1 General

- 10.1.1 These Standing Financial Instructions (SFIs) are issued in accordance with the Primary Care Trust (Functions) Directions 2000 as amended by the Primary Care Trust (Functions) (Amendment) Directions 2002 issued by the Secretary of State which require that each Primary Care Trust shall agree Standing Financial Instructions for the regulation of the conduct of its members and officers in relation to all financial matters with which they are concerned. They shall have effect as if incorporated in the Standing Orders (SOs).
- 10.1.2 These Standing Financial Instructions detail the financial responsibilities, policies and procedures adopted by the PCT. They are designed to ensure that the PCT's financial transactions are carried out in accordance with the law and with Government policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the Schedule of Matters Reserved to the Board and the Scheme of Delegation adopted by the PCT.
- 10.1.3 These Standing Financial Instructions identify the financial responsibilities which apply to everyone working for the PCT and its constituent organisations including Trading Units. They do not provide detailed procedural advice and should be read in conjunction with the detailed departmental and financial procedure notes. All financial procedures must be approved by the Director of Finance or Associate Director of Finance.
- 10.1.4 Should any difficulties arise regarding the interpretation or application of any of the Standing Financial Instructions then the advice of the Director of Finance or Associate Director of Finance must be sought before acting. The user of these Standing Financial Instructions should also be familiar with and comply with the provisions of the PCT's Standing Orders.
- 10.1.5 The failure to comply with Standing Financial Instructions and standing orders can in certain circumstances be regarded as a disciplinary matter that could result in dismissal.
- 10.1.6 Overriding Standing Financial Instructions – If for any reason these Standing Financial Instructions are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance shall be reported to the next formal meeting of the Audit Committee for referring action or ratification. All members of the Board and staff have a duty to disclose any non-compliance with these Standing Financial Instructions to the Director of Finance or Associate Director of Finance as soon as possible.

#### 10.2 Responsibilities and delegation

##### 10.2.1 The PCT Board

The Board exercises financial supervision and control by:

- (a) Formulating the financial strategy;
- (b) Requiring the submission and approval of budgets within approved allocations/overall income;
- (c) Defining and approving essential features in respect of important procedures and financial systems (including the need to obtain value for money); and



- (d) Defining specific responsibilities placed on members of the Board and Professional Executive Committee and employees as indicated in the Scheme of Delegation document.

#### The PCT Board

The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These are set out in the 'Schedule of Matters Reserved to the Board' document. All other powers have been delegated to the Professional Executive Committee and such other committees as the PCT has established.

#### 10.2.3 The PCT Board

The Professional Executive Committee will delegate responsibility for the performance of its functions in accordance with the Scheme of Delegation document adopted by the PCT.

#### 10.2.4 The Chief Executive and Director of Finance

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

Within the Standing Financial Instructions, it is acknowledged that the Chief Executive is ultimately accountable to the Board, and as Accountable Officer, to the Secretary of State, for ensuring that the Board meets its obligation to perform its functions within the available financial resources. The Chief Executive has overall executive responsibility for the PCT's activities; is responsible to the Chairman and the Board for ensuring that its financial obligations and targets are met and has overall responsibility for the PCT's system of internal control.

#### 10.2.5 The Chief Executive and the Director of Finance

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

#### 10.2.6 The Director of Finance

The Director of Finance is responsible for:

- (a) implementing the PCT's financial policies and for co-ordinating any corrective action necessary to further these policies;
- (b) maintaining an effective system of internal financial control including ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions;
- (c) ensuring that sufficient records are maintained to show and explain the PCT's transactions, in order to disclose, with reasonable accuracy, the financial position of the PCT at any time;

and, without prejudice to any other functions of the PCT, and employees of the PCT, the duties of the Director of Finance include:

- (d) the provision of financial advice to other members of the Board and Executive Committee and employees;
- (e) the design, implementation and supervision of systems of internal financial control; and

- (f) the preparation and maintenance of such accounts, certificates, estimates, records and reports as the PCT may require for the purpose of carrying out its statutory duties.

**10.2.7 Board Members, Professional Executive Committee Members and Employees**

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

- (a) The security of the property of the PCT;
- (b) Avoiding loss;
- (c) Exercising economy and efficiency in the use of resources; and
- (d) Conforming with the requirements of Standing Orders, Standing Financial Instructions, Financial Procedures and the Scheme of Delegation.

**10.2.8 Contractors and their employees**

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

**10.2.9 Contractors and their Employees**

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

**11. AUDIT****11.1 Audit Committee**

**11.1.1** An independent Audit Committee is a central means by which a Board ensures effective internal control arrangements are in place. In addition, the Audit Committee provides a form of independent check upon the executive arm of the Board. In accordance with Standing Orders the Board shall formally establish an Audit Committee, with clearly defined terms of reference and following guidance from the NHS Audit Committee Handbook (2005) to perform the following tasks:

- (a) Ensuring there is an effective internal audit function established by management, that meets mandatory NHS Internal Audit Standards and provides appropriate independent assurance to the Audit Committee, Chief Executive and Board;
- (b) Reviewing the work and findings of the external auditor appointed by the Audit Commission and considering the implications of and management's responses to their work;
- (c) Reviewing the findings of other significant assurance functions, both internal and external to the organisation, and considering the implications for the governance of the organisation;
- (d) ensuring that the systems for financial reporting to the Board, including those of budgetary control, are subject to review as to completeness and accuracy of the information provided to the Board;
- (e) Reviewing financial and information systems and monitoring the integrity of the financial statements and reviewing significant financial reporting judgments;

- (f) Reviewing the establishment and maintenance of an effective system of integrated governance, risk management and internal control, across the whole of the organisation's activities (both clinical and non-clinical), that supports the achievement of the organisation's objectives;
- (g) Monitoring compliance with Standing Orders and Standing Financial Instructions;
- (h) Reviewing schedules of losses and compensations and making recommendations to the Board;
- (i) Reviewing schedules of debtors/creditors balances over 6 months old and explanations/action plans;
- (j) Review the annual report and financial statements prior to submission to the Board focusing particularly on;
  - (i) the wording in the Statement of Internal control and other disclosures relevant to the Terms of Reference of the Committee;
  - (ii) changes in, and compliance with, accounting policies and practices;
  - (iii) unadjusted mis-statements in the financial statements;
  - (iv) major judgmental areas;
  - (v) significant adjustments resulting from audit.
- (k) Reviewing the annual financial statements and recommend their approval to the Board;
- (l) Reviewing the external auditors report on the financial statements and the annual management letter;
- (m) Conducting a review of the PCTs major accounting policies;
- (n) Reviewing any incident of fraud or corruption or possible breach of ethical standards or legal or statutory requirements that could have a significant impact on the PCTs published financial accounts or reputation;
- (o) Reviewing any objectives and effectiveness of the internal audit services including its working relationship with external auditors;
- (p) Reviewing major findings from internal and external audit reports and ensure appropriate action is taken;
- (q) Reviewing 'value for money' audits reporting on the effectiveness and efficiency of the selected departments or activities;
- (r) Reviewing the mechanisms and levels of authority (e.g. Standing Orders, Standing Financial Instructions, Delegated limits) and make recommendations to the PCT Board;
- (s) Reviewing the scope of both internal and external audit including the agreement on the number of audits per year for approval by the PCT Board;
- (t) Investigating any matter within its terms of reference, having the right of access to any information relating to the particular matter under investigation;
- (u) Reviewing waivers to Standing Orders;
- (v) Reviewing hospitality and sponsorship registers;
- (w) Reviewing the information prepared to support the controls assurance statements prepared on behalf of the Board and advising the Board accordingly.

- 11.1.2 The minutes of the Audit Committee meetings shall be formally recorded by the Company Secretary and submitted to the Board. The Chair of the Committee shall draw to the attention of the Board any issues that require disclosure to the full Board, or require executive action. The Committee will report to the Board annually on its work in support of the Statement of Internal Control, specifically commenting on the fitness for purpose of the Assurance Framework, the completeness and embeddedness of risk management in the organisation, the integration of governance arrangements and the appropriateness of the self-assessment against the Standards for Better Health.
- 11.1.3 Where the Audit Committee considers there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters that the Committee wishes to raise, the Chairman of the Audit Committee should raise the matter at a full meeting of the Board. Exceptionally, the matter may need to be referred to the Department of Health.11.1.4
- 11.2 Director of Finance
- 11.2.1 The Director of Finance is responsible for:
- (a) ensuring there are arrangements to review, evaluate and report on the effectiveness of internal financial control including the establishment of an effective Internal Audit function;
  - (b) ensuring that the Internal Audit function meets the NHS mandatory audit standards and provides sufficient independent and objective assurance to the Audit Committee and the Accountable Officer;
  - (c) deciding at what stage to involve the police in cases of misappropriation and other irregularities not involving fraud or corruption.
  - (d) ensuring that an annual Internal Audit report is prepared for the consideration of the Audit Committee. The report must cover:
    - (i) a clear opinion on the effectiveness of internal control in accordance with current assurance framework guidance issued by the Department of Health including for example compliance with control criteria and standards;
    - (ii) major internal financial control weaknesses discovered;
    - (iii) progress on the implementation of Internal Audit recommendations;
    - (iv) progress against plan over the previous year;
    - (iv) a strategic audit plan covering the coming three years;
    - (vi) a detailed plan for the coming year.
- 11.2.2 The Director of Finance or designated internal or external auditor is entitled without necessarily giving prior notice to require and receive:
- (a) access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;
  - (b) access at all reasonable times to any land, premises or members of the Board and Executive Committee or employee of the PCT;
  - (c) the production of any cash, stores or other property of the PCT under a member of the Board and Executive Committee's or an employee's control; and

- (d) explanations concerning any matter under investigation.

### 11.3 Role of Internal Audit

#### 11.3.1 Internal Audit is an independent and objective appraisal service within an organisation which provides:

- (1) an independent and objective opinion to the Accountable Officer, the Board, and the Audit Committee on the degree to which risk management, control and governance, support the achievement of the organisation's agreed objectives;
- (2) an independent and objective consultancy service specifically to help line management improve the organisation's risk management, control and governance arrangements.

#### 11.3.2 Internal Audit will review, appraise and report upon policies, procedures and operations in place to;

- (a) establish and monitor the achievement of the organisation's objectives; ;
- (b) identify, assess and manage the risks to achieving the organisation's objectives;
- (c) ensure the economical, effective and efficient use of resources;
- (d) ensure compliance with established policies (including behavioral and ethical expectations), procedures, laws and regulations;
- (e) safeguard the organisation's assets and interests from losses of all kinds, including those arising from fraud, irregularity or corruption;
- (f) ensure the integrity and reliability of information, accounts and data, including internal and external reporting and accountability processes.

#### 11.3.3 The Head of Internal Audit will provide to the Audit Committee;

- (a) A risk-based plan of internal audit work, agreed with management and approved by the Audit Committee, based upon the management's Assurance Framework that will enable the auditors to collect sufficient evidence to give an opinion on the adequacy and effective operation of the organisation;
- (b) Regular updates on the progress against plan;
- (c) Reports of management's progress on the implementation of action agreed as a result of internal audit findings;
- (d) An annual opinion, based upon and limited to the work performed, on the overall adequacy and effectiveness of the organisation's risk management, control and governance processes (i.e. the organisation's system of internal control). This opinion is used by the Board to inform the SIC and by Strategic Health Authority as part of its performance management role;
- (e) A report supporting Trust assurances to the Healthcare Commission on compliance with Standards for Better Health;
- (f) Additional reports as requested by the Audit Committee.

#### 11.3.4 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores, or other property or any suspected irregularity in the exercise of any function of a pecuniary nature, the Director of Finance must be notified immediately.

- 11.3.5 The Head of Internal Audit will normally attend Audit Committee meetings and has a right of access to all Audit Committee members, the Chairman and Chief Executive of the PCT.
- 11.3.6 The Head of Internal Audit reports to the Audit Committee and is facilitated by the Director of Finance. The reporting system for Internal Audit shall be agreed between the Director of Finance, the Audit Committee and the Head of Internal Audit. The agreement shall be in writing and shall comply with the guidance on reporting contained in the NHS Internal Audit Standards. The reporting system shall be reviewed at least every three years.
- 11.3.7 The appointment and termination of the Head of Internal Audit and/or the Internal Audit Service must be approved by the Audit Committee.
- 11.4 External Audit
- 11.4.1 The External Auditor is appointed by the Audit Commission and paid for by the PCT. The Audit Committee must ensure a cost-efficient service. If there are any problems relating to the service provided by the External Auditor, then this should be raised with the External Auditor and referred on to the Audit Commission if the issue cannot be resolved.
- 11.5 Fraud and Corruption
- 11.5.1 In line with their responsibilities, the PCT Chief Executive and Director of Finance shall monitor and ensure compliance with Directions issued by the Secretary of State for Health on fraud and corruption.
- 11.5.2 The PCT shall nominate a suitable person to carry out the duties of the Local Counter Fraud Specialist (LCFS) as specified by the NHS Counter Fraud and Corruption Manual, and guidance.
- 11.5.3 The LCFS shall report to the PCT Director of Finance and shall work with staff in the NHS Counter Fraud Service (NHS CFS) and the Operational Fraud Team (OFT) in accordance with the NHS Counter Fraud and Corruption Manual.
- 11.5.4 The LCFS will provide a written report, at least annually, on counter fraud work within the PCT.
- 11.6 Security Management
- 11.6.1 In line with their responsibilities, the PCT Chief Executive will monitor and ensure compliance with Directions issued by the Secretary of State for Health on NHS security management.
- 11.6.2 The PCT shall nominate a suitable person to carry out the duties of the Local Security Management Specialist (LSMS) as specified by the Secretary of State for Health guidance on NHS Security Management.
- 11.6.3 The PCT shall nominate a Non-Executive Director to oversee the NHS Security Management service who will report to the Board.
- 11.6.4 The Chief Executive has overall responsibility for controlling and coordinating security. However, key tasks are delegated to the Security Management Director (SMD) and the appointed Local Security Management Specialist (LSMS).
12. RESOURCE LIMIT CONTROL
- 12.1.1 The PCT is required by statutory provisions not to exceed its Resource Limit. The Chief Executive has overall executive responsibility for the PCT's activities and is responsible to the PCT for ensuring that it stays within its Resource Limit.

- 12.1.2 The definition of use of resources is set out in RAB Directions on use of resources (available on the Departmental Finance Manual web-site).
- 12.1.3 Any sums received on behalf of the Secretary of State excluding charges arising under Part II of the 1977 NHS Act is treated as sums received by the PCT.
- 12.1.4 The Director of Finance will:
- (a) provide monthly reports in the form required by the Secretary of State;
  - (b) ensure money drawn from the Department of Health against the financing requirement arising from the Resource Limit is required for approved expenditure only, and is drawn down only at the time of need, follows best practice as set out in 'Cash Management in the NHS';
  - (c) be responsible for ensuring that an adequate system of monitoring financial performance is in place to enable the PCT to fulfill its statutory responsibility not to exceed its Annual Revenue and Capital Resource Limits.

### **13. ALLOCATIONS, LOCAL OPERATIONAL PLAN, BUDGETS, BUDGETARY CONTROL AND MONITORING**

#### **13.1 Allocations**

##### **13.1.1 The Director of Finance of the PCT will:**

- (a) periodically review the basis and assumptions used by the Strategic Health Authority for distributing allocations and ensure that these are reasonable and realistic and secure the PCT's entitlement to funds;
- (b) prior to the start of each financial year submit to the PCT Board for approval a report showing the total allocations received and their proposed distribution including any sums to be held in reserve; and
- (c) regularly update the PCT Board on significant changes to the initial allocation and the uses of such funds.

#### **13.2 Preparation and Approval of LOP and Budgets**

##### **13.2.1 The Chief Executive will compile and submit to the Board an LOP which takes into account financial targets and forecast limits of available resources. The plan will contain:**

- (a) a statement of the significant assumptions on which the plan is based;
- (b) details of major changes in workload, delivery of services or resources required to achieve the plan.

##### **13.2.2 Prior to the start of the financial year the Director of Finance will, on behalf of the Chief Executive, prepare and submit budgets for approval by the Board. Such budgets will:**

- (a) be in accordance with the aims and objectives set out in the plan;
- (b) accord with workload and manpower plans;
- (c) be produced following discussion with appropriate budget holders;
- (d) be prepared within the limits of available funds;
- (e) identify potential risks.



- 13.2.3 The Director of Finance shall on a monthly basis monitor financial performance against budget and plan, periodically review them, and report to the Board.
- 13.2.4 All budget holders must provide information as required by the Director of Finance to enable budgets to be compiled.
- 13.2.5 The Director of Finance has a responsibility to ensure that adequate training is delivered on an on-going basis to budget holders to help them manage successfully.

### 13.3 Budgetary Delegation

- 13.3.1 The Chief Executive may delegate the management of a budget to permit the performance of a defined range of activities. This delegation must be in writing and be accompanied by a clear definition of:
  - (a) the amount of the budget;
  - (b) the purpose(s) of each budget heading;
  - (c) individual and group responsibilities;
  - (d) authority to exercise virement;
  - (e) achievement of planned levels of service;
  - (f) the provision of regular reports.
- 13.3.2 The Chief Executive and delegated budget holders must not exceed the budgetary total or virement limits set by the Board.
- 13.3.3 Any budgeted funds not required for their designated purpose(s) revert to the immediate control of the Chief Executive, subject to any authorised use of virement.
- 13.3.4 Non-recurring budgets should not be used to finance recurring expenditure without the authority in writing of the Chief Executive, as advised by the Director of Finance.

### 13.4 Budgetary Control and Reporting

- 13.4.1 The Director of Finance will devise and maintain systems of budgetary control. These will include:
  - (a) monthly financial reports to the Board in a form approved by the Board containing:
    - (i) income and expenditure to date showing trends and forecast year-end position;
    - (ii) movements in working capital;
    - (iii) movements in cash and capital;
    - (iv) capital project spend and projected outturn against plan;
    - (v) explanations of any material variances from plan;
    - (vi) details of any corrective action where necessary and the Chief Executive's and/or Director of Finance's view of whether such actions are sufficient to correct the situation;
  - (b) the issue of timely, accurate and comprehensible advice and financial reports to each budget holder, covering the areas for which they are responsible;

- (c) investigation and reporting of variances from financial, workload and manpower budgets;
- (d) monitoring of management action to correct variances;
- (e) arrangements for the authorisation of budget transfers.

**13.4.2 Each Budget Holder is responsible for ensuring that:**

- (a) any likely overspending or reduction of income which cannot be met by virement is not incurred without the prior consent of the Board;
- (b) the amount provided in the approved budget is not used in whole or in part for any purpose other than that specifically authorized, subject to the rules of virement;
- (c) no permanent employees are appointed without the approval of the Chief Executive other than those provided for within the available resources and manpower establishment as approved by the Board .

**13.4.3 The Chief Executive is responsible for identifying and implementing cost improvements and income generation initiatives in accordance with the requirements of the Local Delivery Plan and a balanced budget.**

**13.5 Capital Expenditure**

**13.5.1 The general rules applying to delegation and reporting shall also apply to capital expenditure. (The particular applications relating to capital are contained in SFI 23).**

**13.6 Monitoring Returns**

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

**14. ANNUAL ACCOUNTS AND REPORTS**

**14.1 The Director of Finance, on behalf of the PCT, will:**

- (a) prepare financial returns in accordance with the accounting policies and guidance given by the Department of Health and the Treasury, the PCT's accounting policies, and International Accounting Standards;
- (b) prepare and submit annual financial reports to the Department of Health certified in accordance with current guidelines;
- (c) submit financial returns to the Department of Health for each financial year in accordance with the timetable prescribed by the Department of Health.

**14.2 The PCT's annual accounts must be audited by an auditor appointed by the Audit Commission. The PCT's audited annual accounts must be presented to a public meeting and made available to the public.**

**14.3 The PCT will publish an annual report, in accordance with guidelines on local accountability, and present it at a public meeting. The document will comply with the Department of Health's Manual for Accounts.**

**15. BANK AND OPG ACCOUNTS**

**15.1 General**

- 15.1.1 The Director of Finance is responsible for managing the PCT's banking arrangements and for advising the PCT Board on the provision of banking services and operation of accounts. This advice will take into account guidance/ Directions issued from time to time by the Department of Health. In line with 'Cash Management in the NHS' PCTs should minimize the use of commercial bank accounts and consider using Office of the Paymaster General (OPG) accounts for all banking services.
- 15.1.2 The Board shall approve the banking arrangements.
- 15.2 Bank and OPG Accounts
- 15.2.1 The Director of Finance is responsible for:
- (a) bank accounts and Office of the Paymaster General (OPG) accounts;
  - (b) establishing separate bank accounts for the PCT's non-exchequer funds;
  - (c) ensuring payments made from bank or OPG accounts do not exceed the amount credited to the account except where arrangements have been made;
  - (d) reporting to the Board all arrangements made with the PCT's bankers for accounts to be overdrawn;
  - (e) monitoring compliance with DH guidance on the level of cleared funds.
- 15.3 Banking Procedures
- 15.3.1 The Director of Finance will prepare detailed instructions on the operation of bank and OPG accounts which must include:
- (a) the conditions under which each bank and OPG account is to be operated;
  - (b) those authorised to sign cheques or other orders drawn on the PCT's accounts.
- 15.3.2 The Director of Finance must advise the PCT's bankers in writing of the conditions under which each account will be operated.
- 15.4 Tendering and Review
- 15.4.1 The Director of Finance will review the banking arrangements of the PCT at regular intervals to ensure they reflect best practice and represent best value for money by periodically seeking competitive tenders for the PCT's banking business.
- 15.4.2 Competitive tenders should be sought at least every 5 years. This review is not necessary for OPG accounts. The results of the tendering exercise based on the selection criteria should be reported to the Board.
- 16. INCOME, FEES AND CHARGES AND SECURITY OF CASH, CHEQUES AND OTHER NEGOTIABLE INSTRUMENTS**
- 16.1 Income Systems
- 16.1.1 The Director of Finance is responsible for designing, maintaining and ensuring compliance with systems for the proper recording, invoicing, and collection and coding of all monies due.
- 16.1.2 The Director of Finance is also responsible for the prompt banking of all monies received.

**16.2 Fees and Charges**

- 16.2.1 The PCT shall follow the Department of Health's advice in the "Costing" Manual in setting prices for NHS service agreements.
- 16.2.2 The Director of Finance is responsible for approving and regularly reviewing the level of all fees and charges other than those determined by the Department of Health or by Statute. Independent professional advice on matters of valuation shall be taken as necessary.
- 16.2.3 All employees must inform the Director of Finance promptly of money due arising from transactions which they initiate/deal with, including all contracts, leases, tenancy agreements, private patient undertakings and other transactions.

**16.3 Debt Recovery**

- 16.3.1 The Director of Finance is responsible for the appropriate recovery action on all outstanding debts.
- 16.3.2 Income not received should be dealt with in accordance with losses procedures.
- 16.3.3 Overpayments should be detected (or preferably prevented) and recovery initiated.

**16.4 Security of Cash, Cheques and other Negotiable Instruments**

- 16.4.1 The Director of Finance is responsible for:
- (a) approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable;
  - (b) ordering and securely controlling any such stationery;
  - (c) the provision of adequate facilities and systems for employees whose duties include collecting and holding cash, including the provision of safes or lockable cash boxes, the procedures for keys, and for coin operated machines;
  - (d) prescribing systems and procedures for handling cash and negotiable securities on behalf of the PCT.
- 16.4.2 Official money shall not under any circumstances be used for the encashment of private cheques or IOUs.
- 16.4.3 All cheques, postal orders, cash etc., shall be banked intact. Disbursements shall not be made from cash received, except under arrangements approved by the Director of Finance.
- 16.4.4 The holders of safe keys shall not accept unofficial funds for depositing in their safes unless such deposits are in special sealed envelopes or locked containers. It shall be made clear to the depositors that the PCT is not to be held liable for any loss, and written indemnities must be obtained from the organisation or individuals absolving the PCT from responsibility for any loss.

**17. TENDERING AND CONTRACTING PROCEDURE****17.1 Duty to comply with Standing Orders and Standing Financial Instructions**

The procedure for making all contracts by or on behalf of the PCT shall comply with these Standing Orders and Standing Financial Instructions (except where Standing Order No. 3.13 Suspension of Standing Orders is applied).

**17.2 EU Directives Governing Public Procurement**

- (a) Directives by the Council of the European Union promulgated by the Department of Health (DH) prescribing procedures for awarding all forms of contracts shall have effect as if incorporated in these Standing Orders and Standing Financial Instructions.
- (b) Primary Care Trust's should consider obtaining support from the NHS Purchasing and Supply Agency for procurement to ensure compliance when engaging in tendering procedures.

### 17.3 Reverse e Auctions

The PCT should have policies and procedures in place for the control of all tendering activity carried out through Reverse eAuctions. For further guidance on Reverse eAuctions refer to [www.ogc.gov.uk](http://www.ogc.gov.uk)

### 17.4 Capital Investment Manual and other Department of Health Guidance

The PCT shall comply as far as is practicable with the requirements of the Department of Health "Capital Investment Manual" and "Estate code" in respect of capital investment and estate and property transactions.

### 17.5 Formal Competitive Tendering

#### 17.5.1 General Applicability

The PCT shall ensure that competitive tenders are invited for:

- the supply of goods, materials and manufactured articles;
- the rendering of services including all forms of management consultancy services (other than specialised services sought from or provided by the DH);
- for the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens); for disposals.

#### 17.5.2 Health Care Services

Where the PCT elects to invite tenders for the supply of healthcare services these Standing Orders and Standing Financial Instructions shall apply as far as they are applicable to the tendering procedure and need to be read in conjunction with Standing Financial Instruction No. 18 and No. 19.

#### 17.5.3 Exceptions and instances where formal tendering need not be applied

Formal tendering procedures need not be applied where:

- (a) the estimated expenditure or income does not, or is not reasonably expected to, exceed £50,000; or
- (b) where the supply is proposed under special arrangements negotiated by the DH in which event the said special arrangements must be complied with;
- (c) regarding disposals as set out in Standing Financial Instructions No. 25;

Formal tendering procedures may be waived in the following circumstances:

- (d) in very exceptional circumstances where the Chief Executive decides that formal tendering procedures would not be practicable or the estimated expenditure or income would not warrant formal tendering

procedures, and the circumstances are detailed in an appropriate PCT record;

- (e) where the requirement is covered by an existing contract;
- (f) where PASA agreements are in place and have been approved by the Board;
- (g) where a consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members;
- (h) where the timescale genuinely precludes competitive tendering but failure to plan the work properly would not be regarded as a justification for a single tender;
- (i) where specialist expertise is required and is available from only one source;
- (j) when 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;
- (k) 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;
- (l) for the provision of legal advice and services providing that any legal firm or partnership commissioned by the PCT is regulated by the Law Society for England and Wales for the conduct of their business (or by the Bar Council for England and Wales in relation to the obtaining of Counsel's opinion) and are generally recognised as having sufficient expertise in the area of work for which they are commissioned.

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

- (m) where allowed and provided for in the Capital Investment Manual.

The waiving of competitive tendering procedures 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, the fact of the waiver and the reasons should be documented and recorded in an appropriate PCT record and reported to the Audit Committee at each meeting.

#### 17.5.4. Fair and Adequate Competition

Where the exceptions set out in SFI Nos. 17.3 and 17.5.3 apply, the PCT shall 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 two firms/individuals, having regard to their capacity to supply the goods or materials or to undertake the services or works required.

#### 17.5.5 List of Approved Firms

The PCT and the Professional Executive Committee shall ensure that the firms/individuals invited to tender (and where appropriate, quote) are among those on

approved lists. Where in the opinion of the Director of Finance it is desirable to seek tenders from firms not on the approved lists, the reason shall be recorded in writing to the Chief Executive or Professional Executive Committee (see SFI 17.6.8 List of Approved Firms).

#### 17.5.6 Building and Engineering Construction Works

Competitive Tendering cannot be waived for building and engineering construction works and maintenance (other than in accordance with Concode) without Departmental of Health approval.

#### 17.5.7 Items which subsequently breach thresholds after original approval

Items estimated to be below the limits set in this Standing Financial Instruction for which formal tendering procedures are not used which subsequently prove to have a value above such limits shall be reported to the Chief Executive, and be recorded in an appropriate PCT record.

### 17.6 Contracting/Tendering Procedure

#### 17.6.1 Invitation to tender

- (i) All invitations to tender shall state the date and time as being the latest time for the receipt of tenders.
- (ii) All invitations to tender shall state that no tender will be accepted unless:
  - submitted in a plain sealed package or envelope bearing a pre-printed label supplied by the PCT (or the word "tender" followed by the subject to which it related) and the latest date and time for the receipt of such tender addressed to the Chief Executive or nominated Manager;
  - that tender envelopes/ packages shall not bear any names or marks indicating the sender. The use of courier/postal services must not identify the sender on the envelope or on any receipt so required by the deliverer.
- (iii) Every tender for goods, materials, services or disposals shall embody such of the NHS Standard Contract Conditions as are applicable.
- (iv) Every tender for building or engineering works (except for maintenance work, when Estmancode guidance shall be followed) shall embody or be in the terms of the current edition of one of the Joint Contracts Tribunal Standard Forms of Building Contract or Department of the Environment (GC/Wks) Standard forms of contract amended to comply with Concode; or, when the content of the work is primarily engineering, the General Conditions of Contract recommended by the Institution of Mechanical and Electrical 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 Institute of Civil Engineers, the Association of Consulting Engineers and the Federation of Civil Engineering Contractors. These documents shall be modified and/or amplified to accord with Department of Health guidance and, in minor respects, to cover special features of individual projects.
- (v) Every tender must have given, or give a written undertaking, not to engage in collusive tendering or other restrictive practice.

#### 17.6.2 Receipt and safe custody of tenders

The Chief Executive or his/her nominated representative will be responsible for the receipt, endorsement and safe custody of tenders received until the time appointed for their opening.

The date and time of receipt of each tender shall be endorsed on the tender envelope/package.

#### 17.6.3 Opening tenders and Register of tenders

- (i) As soon as practicable after the date and time stated as being the latest time for the receipt of tenders, they shall be opened by two senior officers/managers designated by the Chief Executive and not from the originating department.
- (ii)
- (iii) The 'originating' Department will be taken to mean the Department sponsoring or commissioning the tender.
- (iv) The involvement of Finance Directorate staff in the preparation of a tender proposal will not preclude the Director of Finance or any approved Senior Manager from the Finance Directorate from serving as one of the two senior managers to open tenders.
- (v) All Executive Directors/members will be authorised to open tenders regardless of whether they are from the originating department provided that the other authorised person opening the tenders with them is not from the originating department.

The PCT's Company Secretary will count as a Director for the purposes of opening tenders.

- (vi) Every tender received shall be marked with the date of opening and initialed by those present at the opening.
- (vii) A register shall be maintained by the Chief Executive, or a person authorised by him, to show for each set of competitive tender invitations despatched:
  - the name of all firms individuals invited;
  - the names of firms individuals from which tenders have been received;
  - the date the tenders were received and opened;
  - the persons present at the opening;
  - the price shown on each tender;
  - a note where price alterations have been made on the tender and suitably initialed.

Each entry to this register shall be signed by those present.

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

- (viii) Incomplete tenders, i.e. those from which information necessary for the adjudication of the tender is missing, and amended tenders i.e., those amended by the tenderer upon his/her own initiative either orally or in writing after the due time for receipt, but prior to the opening of other tenders, should be dealt with in the same way as late tenders. (Standing Order No. 17.6.5 below).

#### 17.6.4 Admissibility

- i) If for any reason the designated officers are of the opinion that the tenders received are not strictly competitive (for example, because their numbers are



insufficient or any are amended, incomplete or qualified) no contract shall be awarded without the approval of the Chief Executive.

- (ii) Where only one tender is sought and/or received, the Chief Executive and Director of Finance shall, as far practicable, ensure that the price to be paid is fair and reasonable and will ensure value for money for the PCT.

#### 17.6.5 Late tenders

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

#### 17.6.6 Acceptance of formal tenders (See overlap with SFI No. 17.7)

- (i) Any discussions with a tenderer which are deemed necessary to clarify technical aspects of his/her tender before the award of a contract will not disqualify the tender.
- (ii) The lowest tender, if payment is to be made by the PCT, or the highest, if payment is to be received by the PCT, shall be accepted unless there are good and sufficient reasons to the contrary. Such reasons shall be set out in either the contract file, or other appropriate record.

It is accepted that for professional services such as management consultancy, the lowest price does not always represent the best value for money. Other factors affecting the success of a project include:

- (a) experience and qualifications of team members;
- (b) understanding of client's needs;
- (c) feasibility and credibility of proposed approach;
- (d) ability to complete the project on time.

Where other factors are taken into account in selecting a tenderer, these must be clearly recorded and documented in the contract file, and the reason(s) for not accepting the lowest tender clearly stated.

- (iii) No tender shall be accepted which will commit expenditure in excess of that which has been allocated by the PCT and which is not in accordance with these Instructions except with the authorisation of the Chief Executive.
- (iv) The use of these procedures must demonstrate that the award of the contract was:

- (a) not in excess of the going market rate / price current at the time the contract was awarded;
- (b) that best value for money was achieved.
- (v) All Tenders should be treated as confidential and should be retained for inspection.

#### 17.6.7 Tender reports to the PCT Board

Reports to the PCT Board will be made on an exceptional circumstance basis only.

#### 17.6.8 List of approved firms (see SFI No. 17.5.5)

##### (a) Responsibility for maintaining list

A manager nominated by the Chief Executive shall on behalf of the PCT maintain lists of approved firms from who tenders and quotations may be invited. These shall be kept under frequent review. The lists shall include all firms who have applied for permission to tender and as to whose technical and financial competence the PCT is satisfied. All suppliers must be made aware of the PCT's terms and conditions of contract.

##### (b) Building and Engineering Construction Works

- (i) Invitations to tender shall be made only to firms included on the approved list of tenderers compiled in accordance with this Instruction or on the separate maintenance lists compiled in accordance with Estmancode guidance (Health Notice HN(78)147).
- ii) Firms included on the approved list of tenderers shall ensure that when engaging, training, promoting or dismissing employees or in any conditions of employment, shall not discriminate against any person because of colour, race, ethnic or national origins, religion or sex, and will comply with the provisions of the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Race Relations Act 1976, and the Disabled Persons (Employment) Act 1944 and any amending and/or related legislation.
- iii) Firms shall conform at least with the requirements of the Health and Safety at Work Act and any amending and/or other related legislation concerned with the health, safety and welfare of workers and other persons, and to any relevant British Standard Code of Practice issued by the British Standard Institution. Firms must provide to the appropriate manager a copy of its safety policy and evidence of the safety of plant and equipment, when requested.

##### (c) Financial Standing and Technical Competence of Contractors

The Director of Finance may make or institute any enquiries he/she deems appropriate concerning the financial standing and financial suitability of approved contractors. The Director with lead responsibility for clinical governance will similarly make such enquiries as is felt appropriate to be satisfied as to their technical / medical competence.

#### 17.6.9 Exceptions to using approved contractors

If in the opinion of the Chief Executive and the Director of Finance or the Director with lead responsibility for clinical governance it is impractical to use a potential contractor from the list of approved firms/individuals (for example

where specialist services or skills are required and there are insufficient suitable potential contractors on the list), or where a list for whatever reason has not been prepared, the Chief Executive should ensure that appropriate checks are carried out as to the technical and financial capability of those firms that are invited to tender or quote.

An appropriate record in the contract file should be made of the reasons for inviting a tender or quote other than from an approved list.

## 17.7 Quotations: Competitive and non-competitive

### 17.7.1 General Position on quotations

Quotations are required where formal tendering procedures are not adopted and where the intended expenditure or income exceeds, or is reasonably expected to exceed £10,000 but not exceed £50,000.

### 17.7.2 Competitive Quotations

(i) Quotations should be obtained from at least 3 firms/individuals based on specifications or terms of reference prepared by, or on behalf of, the PCT or Executive Committee.

(ii) Quotations should be in writing unless the Chief Executive or his nominated officer determines that it is impractical to do so in which case quotations may be obtained by telephone. Confirmation of telephone quotations should be obtained as soon as possible and the reasons why the telephone quotation was obtained should be set out in a permanent record.

(iii) All quotations should be treated as confidential and should be retained for inspection.

iv) The Chief Executive or his nominated officer should evaluate the quotation and select the quote which gives the best value for money. If this is not the lowest quotation if payment is to be made by the PCT, or the highest if payment is to be received by the PCT, then the choice made and the reasons why should be recorded in a permanent record.

### 17.7.3 Non-Competitive Quotations

Non-competitive quotations in writing may be obtained in the following circumstances:

- (i) the supply of proprietary or other goods of a special character and the rendering of services of a special character, for which it is not, in the opinion of the Responsible Officer, possible or desirable to obtain competitive quotations;
- (ii) the supply of goods or manufactured articles of any kind which are required quickly and are not obtainable under existing contracts;
- (iii) miscellaneous services, supplies and disposals;
- (iv) where the goods or services are for building and engineering maintenance the responsible works manager must certify that the first two conditions of this SFI (i.e.: (i) and (ii) of this SFI) apply.

### 17.7.4 Quotations to be within Financial Limits

No quotation shall be accepted which will commit expenditure in excess of that which has been allocated by the PCT and which is not in accordance with Standing Financial Instructions except with the authorisation of either the Chief Executive or Director of Finance.

## 17.8 Authorisation of Tenders and Competitive Quotations

Providing all the conditions and circumstances set out in these Standing Financial Instructions have been fully complied with, formal authorisation and awarding of a contract may be decided by staff to the value of the contract as **determined in the PCT Board's scheme of delegation.**

Comment [N2]: nothing in scheme of delegation

Formal authorisation must be put in writing. In the case of authorisation by the PCT Board this shall be recorded in their minutes.

## 17.9 Instances where formal competitive tendering or competitive quotation is not required

Where competitive tendering or a competitive quotation is not required, the PCT should adopt one of the following alternatives:

- (a) the PCT shall use the NHS Purchasing & Supplies Agency for procurement of all goods and services unless the Chief Executive or nominated officers deem it inappropriate. The decision to use alternative sources must be documented.
- (b) if the PCT does not use the NHS Purchasing & Supplies Agency - where tenders or quotations are not required, because expenditure is below £10,000, the PCT shall procure goods and services in accordance with procurement procedures approved by the Director of Finance.

## 17.10 Private Finance for capital procurement (see overlap with SFI No. 23)

The PCT should normally market-test for PFI (Private Finance Initiative funding) when considering a capital procurement. When the Board proposes, or is required, to use finance provided by the private sector the following should apply:

- (a) Where the sum exceeds delegated limits, a business case must be referred to the appropriate Department of Health for approval or treated as per current guidelines.
- (b) The proposal must be specifically agreed by the Board of the PCT.
- (c) The selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

## 17.11 Compliance requirements for all contracts

The Board may only enter into contracts on behalf of the PCT within the statutory powers delegated to it by the Secretary of State and shall comply with:

- (a) The PCT's Standing Orders and Standing Financial Instructions;
- (b) EU Directives and other statutory provisions;
- (c) Such of the NHS Standard Contract Conditions as are applicable;
- (d) 'Standards for Better Health';
- (e) Contracts with Foundation Trusts must be in a form compliant with appropriate NHS guidance;

- (f) Where appropriate contracts shall be in or embody the same terms and conditions of contract as was the basis on which tenders or quotations were invited;
- (g) In all contracts made by the PCT, the Board shall endeavour to obtain best value for money by use of all systems in place. The Chief Executive shall nominate an officer who shall oversee and manage each contract on behalf of the PCT.

#### 17.12 Personnel and Agency or Temporary Staff Contracts

The Chief Executive shall nominate officers with delegated authority to enter into contracts of employment, regarding staff, agency staff or temporary staff service contracts.

#### 17.13 Healthcare Services Agreements (see overlap with SFI No. 18)

Service agreements with NHS providers for the supply of healthcare services shall be drawn up in accordance with the NHS and Community Care Act 1990 and administered by the PCT. Service agreements are not contracts in law and are not enforceable by the courts. However, a contract with a Foundation Trust, being a PBC, is a legal document and is enforceable in law.

The PCT is required to advertise all Clinical Services specifications in excess of £100,000 (over the lifetime of the contract) on the Supply2Health website. This does not replace the requirement to notify OJEU if an award notice for all clinical services is over the threshold of £139,000 (over the lifetime of the contract)..

Contracts for the purchase of goods and all services that fall under the Full Services Directive (Priority A Services) over £90,000 (over the lifetime of the contract) will have to be advertised through the OJEC.

The Chief Executive shall nominate officers to commission service agreements with providers of healthcare in line with a commissioning plan approved by the Board.

#### 17.14 Disposals (See overlap with SFI No. 25)

Competitive Tendering or Quotation procedures shall not apply to the disposal of:

- (a) any matter in respect of which a fair price can be obtained only by negotiation or sale by auction as determined (or pre-determined in a reserve) by the Chief Executive or his nominated officer;
- (b) obsolete or condemned articles and stores, which may be disposed of in accordance with the supplies policy of the PCT;
- (c) items to be disposed of with an estimated sale value of less than £10,000, this figure to be reviewed on a periodic basis;
- (d) items arising from works of construction, demolition or site clearance, which should be dealt with in accordance with the relevant contract;
- (e) land or buildings concerning which DH guidance has been issued but subject to compliance with such guidance.

#### 17.15 In-house Services

- 17.15.1 The Chief Executive shall be responsible for ensuring that best value for money can be demonstrated for all services provided on an in-house basis. The PCT may also determine from time to time that in-house services should be market tested by competitive tendering.

**17.15.2** In all cases where the Board or Professional Executive Committee determines that in-house services should be subject to competitive tendering the following groups shall be set up:

- (a) Specification group, comprising the Chief Executive or nominated officer/s and specialist.
- (b) In-house tender group, comprising a nominee of the Chief Executive and technical support.
- (c) Evaluation team, comprising normally a specialist officer, a supplies officer and a Director of Finance representative. For services having a likely annual expenditure exceeding £100,000, a non-officer member should be a member of the evaluation team.

**17.15.3** All groups should work independently of each other and individual officers may be a member of more than one group but no member of the in-house tender group may participate in the evaluation of tenders.

**17.15.4** The evaluation team shall make recommendations to the Board or Professional Executive Committee.

**17.15.5** The Chief Executive shall nominate an officer to oversee and manage the contract on behalf of the PCT.

**17.16** Applicability of SFIs on Tendering and Contracting to funds held in trust (see overlap with SFI No. 28)

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

## **18. NHS SERVICE AGREEMENTS FOR PROVISION OF SERVICES (see overlap with SFI No. 17.13)**

### **18.1 Service Level Agreements (SLAs)**

**18.1.1** The Chief Executive, as the Accountable Officer, is responsible for ensuring the PCT enters into suitable Service Level Agreements (SLA) with service commissioners for the provision of NHS services.

All SLAs should aim to implement the agreed priorities contained within the Local Delivery Plan (LDP) and wherever possible, be based upon integrated care pathways to reflect expected patient experience. In discharging this responsibility, the Chief Executive should take into account:

- the standards of service quality expected;
- the relevant national service framework (if any);
- the provision of reliable information on cost and volume of services;
- the NHS National Performance Assessment Framework;
- that SLAs build where appropriate on existing Joint Investment Plans;
- that SLAs are based on integrated care pathways.

### **18.2 Involving Partners and jointly managing risk**

A good SLA will result from a dialogue of clinicians, users, carers, public health professionals and managers. It will reflect knowledge of local needs and inequalities. This will require the Chief Executive to ensure that the PCT works with all partner agencies involved in both the delivery and the commissioning of the service required. The SLA will apportion responsibility for handling a particular risk to the party or parties in the best position to influence the event and financial arrangements should reflect this. In this way the PCT can jointly manage risk with all interested parties. Due consideration in all provider/purchaser arrangements must be observed as the NHS moves toward a 'Patient-led NHS'.

### 18.3 A 'Patient-Led NHS and 'Practice Based Commissioning''

The Department of Health has published its document 'Creating a patient-led NHS' and 'Practice Based Commissioning' setting out the basis upon which the Government's major reform agenda will be carried forward.

#### A 'Patient-led NHS'

Every aspect of the new system is designed to create a service which is patient-led, where:

- people have a far greater range of choices and of information and guidance to help make choices;
- there a stronger standards and safeguards for patients;
- NHS organisations are better at understanding patients and their needs, use new and different methodologies to do so and have better and more regular sources of information about preferences and satisfaction.

#### What services will look like

In order to be patient-led, the NHS will develop new service models which build on current experience and innovation to:

- give patients more choice and control wherever possible;
- offer integrated networks for emergency, urgent and specialist care to ensure that everyone throughout the country has access to safe, high quality care;
- make sure that all services and all parts of the NHS contribute to health promotion, protection and improvement.

#### Securing services

The NHS will develop the way it secures services for its patients. It will:

- promote more choice in acute care by offering choice to the patient both in number and type of provider;
- encourage development of new community and primary services alongside new practices;
- strengthen existing networks for emergency, urgent and specialist services;
- build on current practices in shared commissioning to create a far simpler contract management and administration system that can be professionally managed.

#### Changing the way the NHS works

The NHS needs a change of culture as well as of systems to become truly patient-led, where:

- everything is measured by its impact on patients and type of provider
- the NHS is as concerned with health promotion and prevention as with sickness and injury;
- frontline staff have more authority and autonomy to better support the patient;
- barriers which create rigidity and inflexibility are tackled and codes of conduct and shared values are instilled into the culture.

#### **Making the changes**

A Patient-led NHS needs effective organisations and incentives, with:

- a new development programme to help NHS Trusts become NHS Foundation Trusts;
- a similar structured programme to support PCTs in their development of 'Practice Based Commissioning';
- further development of Payment by Results to provide appropriate financial incentives for all services;
- greater integration of all the financial and quality incentives along with full utilisation of new human resources and IT programmes.

Commissioning a Patient-led NHS and Practice Based Commissioning are being rolled out by the Department of Health and full support and latest guidance may be accessed at <http://www.dh.gov.uk>

#### **18.4 Reports to Board on SLAs**

The Chief Executive, as the Accountable Officer, will need to ensure that regular reports are provided to the Board detailing actual and forecast expenditure against the SLA. This will include information on costing arrangements, which increasingly should be based upon Healthcare Resource Groups (HRGs). Where HRGs are unavailable for specific services, all parties should agree a common currency for across the range of SLAs.

### **19. COMMISSIONING**

#### **19.1 Role of the PCT in Commissioning Secondary Services**

- 19.1.1 The PCT has responsibilities for commissioning secondary services on behalf of the resident population. This will require the PCT to work in partnership with the Strategic Health Authority, local NHS Trusts, PCTs, and FTs, local authority, users, carers and the voluntary sector to develop a LDP.

#### **19.2 Role of the Chief Executive**

- 19.2.1 The Chief Executive as the Accountable Officer has responsibility for ensuring secondary services are commissioned in accordance with the priorities agreed in the LDP. This will involve ensuring SLAs are put in place with the relevant providers, based upon integrated care pathways.

- 19.2.2 SLAs will be the key means of delivering the objectives of the LDP and therefore they need to have a wider scope. The PCT Chief Executive will need to ensure that all SLAs;

- Meet the standards of service quality expected;



- Fit the requirement of 'Standards for Better Health';
- Fit the relevant national service framework (if any);
- Enable the provision of reliable information on cost and volume of services;
- Fit the NHS National Performance Assessment Framework;
- that SLAs build where appropriate on existing Joint Investment Plans;
- that SLAs are based upon cost-effective services;
- that SLAs are based on integrated care pathways.

19.2.3 The Chief Executive, as the Accountable Officer, will need to ensure that regular reports are provided to the Board detailing actual and forecast expenditure and activity for each SLA.

19.2.4 Where the PCT makes arrangements for the provision of services by non-NHS providers it is the Chief Executive, as the Accountable Officer, who is responsible for ensuring that the agreements put in place have due regard to the quality and cost-effectiveness of services provided. Before making any agreement with non-NHS providers, the PCT should explore fully the scope to make maximum cost-effective use of NHS facilities.

### 19.3 Role of Director of Finance

19.3.1 A system of financial monitoring must be maintained by the Director of Finance to ensure the effective accounting of expenditure under the SLA. This should provide a suitable audit trail for all payments made under the agreements, but maintains patient confidentiality.

19.3.2 The Director of Finance must account for Out of Area Treatments/Non Contract Activity financial adjustments in accordance with national guidelines.

## 20. TERMS OF SERVICE, ALLOWANCES AND PAYMENT OF MEMBERS OF THE PCT BOARD AND EXECUTIVE COMMITTEE AND EMPLOYEES

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

20.1.1 In accordance with Standing Orders the Board shall establish a Remuneration and Terms of Service Committee, with clearly defined terms of reference, specifying which posts fall within its area of responsibility, its composition, and the arrangements for reporting. (See NHS guidance contained in the Higgs report).

20.1.2 The Committee will:

- (a) advise the Board about appropriate remuneration and terms of service for the Chief Executive, other officer members employed by the PCT and other senior employees including:
  - (i) all aspects of salary (including any performance-related elements/bonuses);
  - (ii) provisions for other benefits, including pensions and cars;
  - (iii) arrangements for termination of employment and other contractual terms;
- (b) make such recommendations to the Board on the remuneration and terms of service of officer members of the Board and Executive Committee members

(and other senior employees) to ensure they are fairly rewarded for their individual contribution to the PCT - having proper regard to the PCT's circumstances and performance and to the provisions of any national arrangements for such members and staff where appropriate;

- (c) monitor and evaluate the performance of individual officer members of the Executive Committee (and other senior employees);
- (d) advise on and oversee appropriate contractual arrangements for such staff including the proper calculation and scrutiny of termination payments taking account of such national guidance as is appropriate.

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

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

20.1.5 The PCT will pay allowances to the Chairman and non-officer members of the Board in accordance with instructions issued by the Secretary of State for Health.

## 20.2 Funded Establishment

20.2.1 The manpower plans incorporated within the annual budget will form the funded establishment.

20.2.2 The funded establishment of any department may not be varied without the approval of the Chief Executive.

## 20.3 Staff Appointments

20.3.1 No officer or Member of the Professional Executive Committee, or Member of the PCT Board or employee may engage, re-engage, or re-grade employees, either on a permanent or temporary nature, or hire agency staff, or agree to changes in any aspect of remuneration:

- (a) unless authorised to do so by the Chief Executive; and
- (b) within the limit of their approved budget and funded establishment.

20.3.2 The Board will approve procedures presented by the Chief Executive for the determination of commencing pay rates, condition of service, etc, for employees.

## 20.4 Processing Payroll

20.4.1 The Director of Finance is responsible for:

- (a) specifying timetables for submission of properly authorised time records and other notifications;
- (b) the final determination of pay and allowances;
- (c) making payment on agreed dates;
- (d) agreeing method of payment.

20.4.2 The Director of Finance will issue instructions regarding:

- (a) verification and documentation of data;
- (b) the timetable for receipt and preparation of payroll data and the payment of employees and allowances;
- (c) maintenance of subsidiary records for superannuation, income tax, social security and other authorised deductions from pay;
- (d) security and confidentiality of payroll information;
- (e) checks to be applied to completed payroll before and after payment;
- (f) authority to release payroll data under the provisions of the Data Protection Act;
- (g) methods of payment available to various categories of employee and officers;
- (h) procedures for payment by cheque, bank credit, or cash to employees and officers;
- (i) procedures for the recall of cheques and bank credits;
- (j) pay advances and their recovery;
- (k) maintenance of regular and independent reconciliation of pay control accounts;
- (l) separation of duties of preparing records and handling cash;
- (m) a system to ensure the recovery from those leaving the employment of the PCT of sums of money and property due by them to the PCT.

**20.4.3 Appropriately nominated managers and Executive Committee members have delegated responsibility for:**

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

**20.4.4 Regardless of the arrangements for providing the payroll service, the Director of Finance shall ensure that the chosen method is supported by appropriate (contracted) terms and conditions, adequate internal controls and audit review procedures and that suitable arrangement are made for the collection of payroll deductions and payment of these to appropriate bodies.**

**20.5 Contracts of Employment**

**20.5.1 The Board shall delegate responsibility to an officer for:**

- (a) ensuring that all employees are issued with a Contract of Employment in a form approved by the Board and which complies with employment legislation; and
- (b) dealing with variations to, or termination of, contracts of employment.

**21. NON-PAY EXPENDITURE****21.1 Delegation of Authority**

**21.1.1** The Board will approve the level of non-pay expenditure on an annual basis and the Chief Executive will determine the level of delegation to budget managers.

**21.1.2** The Chief Executive will set out:

- (a) the list of managers who are authorised to place requisitions for the supply of goods and services;
- (b) the maximum level of each requisition and the system for authorisation above that level.

**21.1.3** The Chief Executive shall set out procedures on the seeking of professional advice regarding the supply of goods and services.

**21.2** Choice, Requisitioning, Ordering, Receipt and Payment for Goods and Services (see overlap with Standing Financial Instruction No. 17)

**21.2.1 Requisitioning**

The requisitioner, in choosing the item to be supplied (or the service to be performed) shall always obtain the best value for money for the PCT. In so doing, the advice of the PCT's adviser on supply shall be sought. Where this advice is not acceptable to the requisitioner, the Director of Finance (and/or the Chief Executive) shall be consulted.

**21.2.2 System of Payment and Payment Verification**

The Director of Finance shall be responsible for the prompt payment of accounts and claims. Payment of contract invoices shall be in accordance with contract terms, or otherwise, in accordance with national guidance.

**21.2.3 Passive Invoice Approval**

Non Purchase Order Invoices up to the value of £100 will be automatically approved and coded if no action is taken by the approver.

**21.2.4 Passive Receipting**

Where invoices are received when a Purchase Order has been raised and the value is less than £100, then the invoice will be automatically receipted and the invoice paid.

**21.2.5 The Director of Finance will:**

- (a) advise the Board regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; and, once approved, the thresholds should be incorporated in Standing Orders and Standing Financial Instructions and regularly reviewed;
- (b) prepare procedural instructions or guidance within the Scheme of Delegation on the obtaining of goods, works and services incorporating the thresholds;
- (c) be responsible for the prompt payment of all properly authorised accounts and claims;
- (d) be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable. The system shall provide for:

- (i) A list of Board and Executive Committee members/employees (including specimens of their signatures) authorised to certify invoices.
- (ii) Certification that:
  - goods have been duly received, examined and are in accordance with specification and the prices are correct, except where Passive Receipting and Invoice Authorisation is in place.
  - work done or services rendered have been satisfactorily carried out in accordance with the order, and, where applicable, the materials used are of the requisite standard and the charges are correct;
  - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for the use of vehicles, plant and machinery have been examined;
  - where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
  - the account is arithmetically correct;
  - the account is in order for payment.
- (iii) A timetable and system for submission to the Director of Finance of accounts for payment; provision shall be made for the early submission of accounts subject to cash discounts or otherwise requiring early payment.
- (iv) Instructions to employees regarding the handling and payment of accounts within the Finance Department.
- (e) be responsible for ensuring that payment for goods and services is only made once the goods and services are received. The only exceptions are set out in SFI No. 21.2.4 below.
- (f) Be responsible for ensuring that Passive Approval invoices are checked on a regular basis.

#### 21.2.4 Prepayments

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

- (a) Prepayments are only permitted where the financial advantages outweigh the disadvantages (i.e. cash flows must be discounted to NPV using the National Loans Fund (NLF) rate plus 2%).
- (b) The appropriate officer member of the Professional Executive Committee Group must provide, in the form of a written report, a case setting out all relevant circumstances of the purchase. The report must set out the effects on the PCT if the supplier is at some time during the course of the prepayment agreement unable to meet his commitments;
- (c) The Director of Finance will need to be satisfied with the proposed arrangements before contractual arrangements proceed (taking into account the EU public procurement rules where the contract is above a stipulated financial threshold);
- (d) The budget holder is responsible for ensuring that all items due under a prepayment contract are received and they must immediately inform the

appropriate Director or Chief Executive if problems are encountered.

#### 21.2.5 Official orders

Official Orders must:

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

#### 21.2.6 Duties of Managers and Officers

Managers and officers must ensure that they comply fully with the guidance and limits specified by the Director of Finance and that:

- (a) all contracts (except as otherwise provided for in the Scheme of Delegation), leases, tenancy agreements and other commitments which may result in a liability are notified to the Director of Finance in advance of any commitment being made;
- (b) contracts above specified thresholds are advertised and awarded in accordance with EU rules on public procurement;
- (c) where consultancy advice is being obtained, the procurement of such advice must be in accordance with guidance issued by the Department of Health;
- (d) no order shall be issued for any item or items to any firm which has made an offer of gifts, reward or benefit to directors or employees, other than:
  - (i) isolated gifts of a trivial character or inexpensive seasonal gifts, such as calendars;
  - (ii) conventional hospitality, such as lunches in the course of working visits;

(This provision needs to be read in conjunction with Standing Order No. 6 and the principles outlined in the national guidance contained in HSG 93(5) "Standards of Business Conduct for NHS Staff"; the Code of Conduct for NHS Managers 2002); and the ABPI Code of Professional Conduct relating to hospitality/gifts from pharmaceutical/external industry.

- (e) no requisition/order is placed for any item or items for which there is no budget provision unless authorised by the Director of Finance on behalf of the Chief Executive;
- (f) all goods, services, or works are ordered on an official order except works and services executed in accordance with a contract and purchases from petty cash;
- (g) verbal orders must only be issued very exceptionally - by an employee designated by the Chief Executive and only in cases of emergency or urgent necessity. These must be confirmed by an official order and clearly marked "Confirmation Order";
- (h) orders are not split or otherwise placed in a manner devised so as to avoid the financial thresholds;

- (i) goods are not taken on trial or loan in circumstances that could commit the PCT to a future uncompetitive purchase;
- (j) changes to the list of members/employees and officers authorised to certify invoices are notified to the Director of Finance;
- (k) purchases from petty cash are restricted in value and by type of purchase in accordance with instructions issued by the Director of Finance;
- (l) petty cash records are maintained in a form as determined by the Director of Finance.

21.2.7 The Chief Executive and Director of Finance shall ensure that the arrangements for financial control and financial audit of building and engineering contracts and property transactions comply with the guidance contained within Concode and Estatecode. The technical audit of these contracts shall be the responsibility of the relevant Director.

21.3 Joint Finance Arrangements with Local Authorities and Voluntary Bodies (see overlap with Standing Order No. 9.1)

21.3.1 Payments to local authorities and voluntary organisations made under the powers of section 28A of the NHS Act 1977 shall comply with procedures laid down by the Director of Finance which shall be in accordance with that Acts. (See overlap with Standing Order No. 9.1)

## 22. FINANCIAL FRAMEWORK

22.3.1 The Director of Finance should ensure that members of the Board and the Executive Committee are aware of the Financial Framework. This document contains directions which the PCT must follow. It also contains directions to Strategic Health Authorities regarding resource and capital allocation and funding to PCTs. The Director of Finance should also ensure that the direction and guidance in the framework is followed by the PCT.

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

### 23.1 Capital Investment

#### 23.1.1 The Chief Executive:

- (a) shall ensure that there is an adequate appraisal and approval process in place for determining capital expenditure priorities and the effect of each proposal upon plans;
- (b) is responsible for the management of all stages of capital schemes and for ensuring that schemes are delivered on time and to cost;
- (c) shall ensure that the capital investment is not undertaken without confirmation of purchaser(s) support and the availability of resources to finance all revenue consequences, including capital charges.

#### 23.1.2 For every capital expenditure proposal the Chief Executive shall ensure:

- (a) that a business case (in line with the guidance contained within the PCT's Capital Investment Manual) is produced setting out:
  - (i) an option appraisal of potential benefits compared with known costs to determine the option with the highest ratio of benefits to costs;

(ii) appropriate project management and control arrangements;

(b) that the Director of Finance has certified professionally to the costs and revenue consequences detailed in the business case and involved appropriate PCT personnel and external agencies in the process.

23.1.3 For capital schemes where the contracts stipulate stage payments, the Chief Executive will issue procedures for their management, incorporating the recommendations of Estatecode.

The Director of Finance shall issue procedures for the regular reporting of expenditure and commitment against authorised expenditure.

23.1.4 The approval of a capital programme shall not constitute approval for expenditure on any scheme.

The Chief Executive shall issue to the manager responsible for any scheme:

- (a) specific authority to commit expenditure;
- (b) authority to proceed to tender ( see overlap with SFI No. 17.5);
- (c) approval to accept a successful tender (see overlap with SFI No. 17.5).

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

23.1.5 The Director of Finance shall issue procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes. These procedures shall fully take into account the delegated limits for capital schemes included in Annex C of HSC (1999) 246.

23.2 Private Finance (see overlap with SFI No. 17.10)

23.2.1 The PCT should normally test for PFI when considering capital procurement. When the PCT proposes to use finance which is to be provided other than through its Allocations, the following procedures shall apply:

- (a) The Director of Finance shall demonstrate that the use of private finance represents value for money.
- (b) Where the sum involved exceeds delegated limits, the business case must be referred to the Department of Health or in line with any current guidelines.
- (c) The proposal must be specifically agreed by the Board.

23.3 Asset Registers

23.3.1 The Chief Executive is responsible for the maintenance of registers of assets, taking account of the advice of the Director of Finance concerning the form of any register and the method of updating, and arranging for a physical check of assets against the asset register to be conducted once a year.

23.3.2 Each PCT shall maintain an asset register recording fixed assets. The minimum data set to be held within these registers shall be as specified in the PCT's Capital Accounting Manual.

23.3.3 Additions to the fixed asset register must be clearly identified to an appropriate budget holder and be validated by reference to:

- (a) properly authorised and approved agreements, architect's certificates, supplier's invoices and other documentary evidence in respect of purchases from third parties;



- (b) stores, requisitions and wages records for own materials and labour including appropriate overheads;
  - (c) lease agreements in respect of assets held under a finance lease and capitalised.
- 23.3.4 Where capital assets are sold, scrapped, lost or otherwise disposed of, their value must be removed from the accounting records and each disposal must be validated by reference to authorisation documents and invoices (where appropriate).
- 23.3.5 The Director of Finance shall approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.
- 23.3.6 The value of each asset shall be indexed to current values in accordance with methods specified in the PCT's Capital Accounting Manual.
- 23.3.7 The value of each asset shall be depreciated using methods and rates as specified in the PCT's Capital Accounting Manual.
- 23.3.8 The Director of Finance of the PCT shall calculate and pay capital charges as specified in the PCT's Capital Accounting Manual.
- 23.4 **Security of Assets**
  - 23.4.1 The overall control of fixed assets is the responsibility of the Chief Executive.
  - 23.4.2 Asset control procedures (including fixed assets, cash, cheques and negotiable instruments, and also including donated assets) must be approved by the Director of Finance. This procedure shall make provision for:
    - (a) recording managerial responsibility for each asset;
    - (b) identification of additions and disposals;
    - (c) identification of all repairs and maintenance expenses;
    - (d) physical security of assets;
    - (e) periodic verification of the existence of, condition of, and title to, assets recorded;
    - (f) identification and reporting of all costs associated with the retention of an asset;
    - (g) reporting, recording and safekeeping of cash, cheques, and negotiable instruments.
  - 23.4.3 All discrepancies revealed by verification of physical assets to fixed asset register shall be notified to the Director of Finance.
  - 23.4.4 Whilst each employee and officer has a responsibility for the security of property of the PCT, it is the responsibility of Board and Professional Executive Committee members and senior employees in all disciplines to apply such appropriate routine security practices in relation to NHS property as may be determined by the Board. Any breach of agreed security practices must be reported in accordance with agreed procedures.
  - 23.4.5 Any damage to the PCT's premises, vehicles and equipment, or any loss of equipment, stores or supplies must be reported by Board and Professional Executive Committee members and employees in accordance with the procedure for reporting losses.

23.4.6 Where practical, assets should be marked as PCT property.

## 23.5 NHS LIFT

23.5 A Primary Care Trust planning involvement with LIFT projects should access guidance from the joint DH and Partnerships UK website at [www.partnershipsforhealth.co.uk](http://www.partnershipsforhealth.co.uk).

## 24. STORES AND RECEIPT OF GOODS

### 24.1 General position

24.1.1 Stores, defined in terms of controlled stores and departmental stores (for immediate use) should be:

- (a) kept to a minimum;
- (b) subjected to annual stock take;
- (c) valued at the lower of cost and net realisable value.

### 24.2 Control of Stores, Stocktaking, condemnations and disposal

24.2.1 Subject to the responsibility of the Director of Finance for the systems of control, overall responsibility for the control of stores shall be delegated to an employee by the Chief Executive. The day-to-day responsibility may be delegated by him/her to departmental employees and stores managers/keepers, subject to such delegation being entered in a record available to the Director of Finance. The control of any Pharmaceutical stocks shall be the responsibility of a designated Pharmaceutical Officer; the control of any fuel oil and coal of a designated estates manager.

24.2.2 The responsibility for security arrangements and the custody of keys for any stores and locations shall be clearly defined in writing by the designated manager/Pharmaceutical Officer. Wherever practicable, stocks should be marked as health service property.

24.2.3 The Director of Finance shall set out procedures and systems to regulate the stores including records for receipt of goods, issues, and returns to stores and losses.

24.2.4 Stocktaking arrangements shall be agreed with the Director of Finance and there shall be a physical check covering all items in store at least once a year.

24.2.5 Where a complete system of stores control is not justified, alternative arrangements shall require the approval of the Director of Finance.

24.2.6 The designated Manager shall be responsible for a system approved by the Director of Finance for a review of slow moving and obsolete items and for condemnation, disposal, and replacement of all unserviceable articles. The designated Officer shall report to the Director of Finance any evidence of significant overstocking and of any negligence or malpractice (see also overlap with SFI No. 25 Disposals and Condemnations, Losses and Special Payments). Procedures for the disposal of obsolete stock shall follow the procedures set out for disposal of all surplus and obsolete goods.

### 24.3 Goods supplied by NHS Logistics

24.3.1 For goods supplied via the NHS Logistics central warehouses, the Chief Executive shall identify those authorised to requisition and accept goods from the store. The authorised person shall check receipt against the delivery note before forwarding this to the Director of Finance who shall satisfy himself that the goods have been

received before accepting the recharge.

## **25. DISPOSALS AND CONDEMNATIONS, LOSSES AND SPECIAL PAYMENTS**

### **25.1 Disposals and Condemnations**

#### **25.1.1 Procedures**

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

**25.1.2** When it is decided to dispose of a PCT asset, the Head of Department or authorised deputy will determine and advise the Director of Finance of the estimated market value of the item, taking account of professional advice where appropriate.

**25.1.3** All unserviceable articles shall be:

- (a) condemned or otherwise disposed of by an employee authorised for that purpose by the Director of Finance;
- (b) recorded by the Condemning Officer in a form approved by the Director of Finance which will indicate whether the articles are to be converted, destroyed or otherwise disposed of. All entries shall be confirmed by the countersignature of a second employee authorised for the purpose by the Director of Finance.

**25.1.4** The Condemning Officer shall satisfy himself as to whether or not there is evidence of negligence in use and shall report any such evidence to the Director of Finance who will take the appropriate action.

### **25.2 Losses and Special Payments**

#### **25.2.1 Procedures**

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

**25.2.2** Any employee or officer discovering or suspecting a loss of any kind must either immediately inform their Head of Department, who must immediately inform the Chief Executive and the Director of Finance or inform an officer charged with responsibility for responding to concerns involving loss. This officer will then appropriately inform the Director of Finance and/or Chief Executive. Where a criminal offence is suspected, the Director of Finance must immediately inform the police if theft or arson is involved. In cases of fraud and corruption or of anomalies which may indicate fraud or corruption, the Director of Finance must inform the relevant LCFS and Operational Fraud Team (OFT) in accordance with Secretary of State for Health's Directions.

#### **25.2.3 Suspected fraud**

The Director of Finance must notify the NHS CFS and the External Auditor of all frauds.

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

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

- 25.2.5 Within limits delegated to it by the Department of Health, the Board shall approve the writing-off of losses.
- 25.2.6 The Director of Finance shall be authorised to take any necessary steps to safeguard the PCT's interests in bankruptcies and company liquidations.
- 25.2.7 For any loss, the Director of Finance should consider whether any insurance claim can be made.
- 25.2.8 The Director of Finance shall maintain a Losses and Special Payments Register in which write-off action is recorded.
- 25.2.9 No special payments exceeding delegated limits shall be made without the prior approval of the Department of Health.
- 25.2.10 All losses and special payments must be reported to the Audit Committee at every meeting.

## **26. INFORMATION TECHNOLOGY**

### **26.1 Responsibilities and duties of the Director of Finance**

- 26.1.1 The Director of Finance, who is responsible for the accuracy and security of the computerised financial data of the PCT, shall:
    - (a) devise and implement any necessary procedures to ensure adequate (reasonable) protection of the PCT's data, programs and computer hardware for which the Director is responsible from accidental or intentional disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for the Data Protection Act 1998;
    - (b) ensure that adequate (reasonable) controls exist over data entry, processing, storage, transmission and output to ensure security, privacy, accuracy, completeness, and timeliness of the data, as well as the efficient and effective operation of the system;
    - (c) ensure that adequate controls exist such that the computer operation is separated from development, maintenance and amendment;
    - (d) ensure that an adequate management (audit) trail exists through the computerised system and that such computer audit reviews as the Director may consider necessary are being carried out.
  - 26.1.2 The Director of Finance shall need to ensure that new financial systems and amendments to current financial systems are developed in a controlled manner and thoroughly tested prior to implementation. Where this is undertaken by another organisation, assurances of adequacy must be obtained from them prior to implementation.
  - 26.1.3 The Director with responsibility for information technology shall publish and maintain a Freedom of Information (FOI) Publication Scheme, or adopt a model Publication Scheme approved by the Information Commissioner. A Publication Scheme is a complete guide to the information routinely published by a public authority. It describes the classes or types of information about our PCT that we make publicly available.
- ### **26.2 Responsibilities and duties of other Directors and Officers in relation to computer systems of a general application**
- 26.2.1 In the case of computer systems which are proposed General Applications (i.e. normally those applications which the majority of PCTs in the Region wish to

sponsor jointly) all responsible directors and employees will send to the Director of Finance:

- (a) details of the outline design of the system;
- (b) in the case of packages acquired either from a commercial organisation, from the NHS, or from another public sector organisation, the operational requirement.

#### **26.3 Contracts for computer services with other health bodies or outside agencies**

The Director of Finance shall ensure that contracts for computer services for financial applications with another health organisation or any other agency shall clearly define the responsibility of all parties for the security, privacy, accuracy, completeness, and timeliness of data during processing, transmission and storage. The contract should also ensure rights of access for audit purposes.

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

#### **26.4 Requirements for computer systems which have an impact on corporate financial systems**

Where computer systems have an impact on corporate financial systems the Director of Finance shall need to be satisfied that:

- (a) systems acquisition, development and maintenance are in line with corporate policies such as an Information Technology Strategy;
- (b) data produced for use with financial systems is adequate, accurate, complete and timely, and that a management (audit) trail exists;
- (c) Director of Finance staff have access to such data;
- (d) such computer audit reviews as are considered necessary are being carried out.

### **27 PATIENTS' PROPERTY**

**27.1** The PCT has a responsibility to provide safe custody for money and other personal property (hereafter referred to as "property") handed in by patients, in the possession of unconscious or confused patients, or found in the possession of patients dying in hospital or dead on arrival.

**27.2** The Chief Executive is responsible for ensuring that patients or their guardians, as appropriate, are informed before or at admission by:

- Notices and information booklets (subject to sensitivity guidance);
- Hospital admission documentation and property records;
- The oral advice of administrative and nursing staff responsible for admissions.

that the PCT will not accept responsibility or liability for patients' property brought into Health Service premises, unless it is handed in for safe custody and a copy of an official patients' property record is obtained as a receipt.

**27.3** The Director of Finance must provide detailed written instructions on the collection, custody, investment, recording, safekeeping, and disposal of patients' property (including instructions on the disposal of the property of deceased patients and of patients transferred to other premises) for all staff whose duty is to administer, in any

way, the property of patients. Due care should be exercised in the management of a patient's money in order to maximise the benefits to the patient.

- 27.4 Where Department of Health instructions require the opening of separate accounts for patients' moneys, these shall be opened and operated under arrangements agreed by the Director of Finance.
- 27.5 In all cases where property of a deceased patient is of a total value in excess of £5,000 (or such other amount as may be prescribed by any amendment to the Administration of Estates, Small Payments, Act 1965), the production of Probate or Letters of Administration shall be required before any of the property is released. Where the total value of property is £5,000 or less, forms of indemnity shall be obtained.
- 27.6 Staff should be informed, on appointment, by the appropriate departmental or senior manager of their responsibilities and duties for the administration of the property of patients.
- 27.7 Where patients' property or income is received for specific purposes and held for safekeeping the property or income shall be used only for that purpose, unless any variation is approved by the donor or patient in writing.

## 28. FUNDS HELD ON TRUST

### 28.1 Corporate Trustee

- (1) Standing Order No. 2.9 outlines the PCT's responsibilities as a corporate trustee for the management of funds it holds on trust, along with SO 4.9.4 that defines the need for compliance with Charities Commission latest guidance and best practice.
- (2) The discharge of the PCT's corporate trustee responsibilities are distinct from its responsibilities for exchequer funds and may not necessarily be discharged in the same manner, but there must still be adherence to the overriding general principles of financial regularity, prudence and propriety. Trustee responsibilities cover both charitable and non-charitable purposes.

The Director of Finance shall ensure that each trust fund which the PCT is responsible for managing is managed appropriately with regard to its purpose and to its requirements.

### 28.2 Accountability to Charity Commission and Secretary of State for Health

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

### 28.3 Applicability of Standing Financial Instructions to funds held on Trust

- (1) In so far as it is possible to do so, most of the sections of these Standing Financial Instructions will apply to the management of funds held on trust. (See overlap with SFI No. 17.16).
- (2) The over-riding principle is that the integrity of each Trust must be maintained and statutory and Trust obligations met. Materiality must be assessed separately from Exchequer activities and funds.

**29. ACCEPTANCE OF GIFTS BY STAFF AND LINK TO STANDARDS OF BUSINESS CONDUCT (see overlap with SO No. 6 and SFI No. 21.2.6 (d))**

The Director of Finance shall ensure that all staff are made aware of the PCT policy on acceptance of gifts and other benefits in kind by staff. This policy follows the guidance contained in the Department of Health circular HSG (93) 5 'Standards of Business Conduct for NHS Staff'; the Code of Conduct for NHS Managers 2002; and the ABPI Code of Professional Conduct relating to hospitality/gifts from pharmaceutical/external industry and is also deemed to be an integral part of these Standing Orders and Standing Financial Instructions (see overlap with SO No. 6).

**30. PAYMENTS TO INDEPENDENT CONTRACTORS**

**30.1 Role of the PCT**

The PCT will approve additions to, and deletions from, approved lists of contractors, taking into account the health needs of the local population, and the access to existing services. All applications and resignations received shall be dealt with equitably, within any time limits laid down in the contractors NHS terms and conditions of service.

**30.2 Duties of the Chief Executive**

The Chief Executive shall:

- (a) ensure that lists of all contractors, for which the PCT is responsible, are maintained in an up to date condition;
- (b) ensure that systems are in place to deal with applications, resignations, inspection of premises, etc, within the appropriate contractor's terms and conditions of service.

**30.3 Duties of the Director of Finance**

The Director of Finance shall:

- (a) ensure that contractors who are included on a Primary Care Trust's approved lists receives payments;
- (b) maintain a system of payments such that all valid contractors' claims are paid promptly and correctly, and are supported by the appropriate documentation and signatures;
- (c) ensure that regular independent verification of claims is undertaken, to confirm that:
  - (i) rules have been correctly and consistently applied;
  - (ii) overpayments are detected (or preferably prevented) and recovery initiated;
  - (iii) suspicions of possible fraud are identified and subsequently dealt with in line with the Secretary of State for Health's Directions on the management of fraud and corruption.
- (d) ensure that arrangements are in place to identify contractors receiving exceptionally high, low or no payments, and highlight these for further investigation; and

- (e) ensure that a prompt response is made to any query raised by either the Prescription Pricing Division or the Dental Practice Division of the NHS Business Services Authority, regarding claims from contractors submitted directly to them.

## **31. RETENTION OF RECORDS**

- 31.1 The Chief Executive shall be responsible for maintaining archives for all records required to be retained in accordance with NHS Code of Practice - Records Management 2006.
- 31.2 The records held in archives shall be capable of retrieval by authorised persons.
- 31.3 Records held in accordance with NHS Code of Practice - Records Management 2006, shall only be destroyed at the express instigation of the Chief Executive. Detail shall be maintained of records so destroyed.

## **32. RISK MANAGEMENT AND INSURANCE**

### **32.1 Programme of Risk Management**

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

The programme of risk management shall include:

- a) a process for identifying and quantifying risks and potential liabilities;
- b) engendering among all levels of staff a positive attitude towards the control of risk;
- c) management processes to ensure all significant risks and potential liabilities are addressed including effective systems of internal control, cost effective insurance cover, and decisions on the acceptable level of retained risk;
- d) contingency plans to offset the impact of adverse events;
- e) audit arrangements including; internal audit, clinical audit, health and safety review;
- f) a clear indication of which risks shall be insured;
- g) arrangements to review the risk management programme.

The existence, integration and evaluation of the above elements will assist in providing a basis to make a statement on the effectiveness of internal control within the Annual Report and Accounts as required by current Department of Health guidance.

### **32.2 Insurance: Risk Pooling Schemes administered by NHSLA**

The Board shall decide if the PCT will insure through the risk pooling schemes administered by the NHS Litigation Authority or self insure for some or all of the risks covered by the risk pooling schemes. If the Board decides not to use the risk pooling schemes for any of the risk areas (clinical, property and employers/third party liability) covered by the scheme this decision shall be reviewed annually.



**32.3 Insurance arrangements with commercial insurers**

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

- (1) for insuring motor vehicles owned by the PCT including insuring third party liability arising from their use;
- (2) where the PCT is involved with a consortium in a Private Finance Initiative contract and the other consortium members require that commercial insurance arrangements are entered into;
- (3) where income generation activities take place. Income generation activities should normally be insured against all risks using commercial insurance. If the income generation activity is also an activity normally carried out by the PCT for a NHS purpose the activity may be covered in the risk pool. Confirmation of coverage in the risk pool must be obtained from the NHS Litigation Authority. In any case of doubt concerning a PCT's powers to enter into commercial insurance arrangements the Finance Director should consult the Department of Health.

**32.4 Arrangements to be followed by the Board in agreeing Insurance cover**

- (1) Where the Board decides to use the risk pooling schemes administered by the NHS Litigation Authority the Director of Finance shall ensure that the arrangements entered into are appropriate and complementary to the risk management programme. The Director of Finance shall ensure that documented procedures cover these arrangements.
- (2) Where the Board decides not to use the risk pooling schemes administered by the NHS Litigation Authority for one or other of the risks covered by the schemes, the Director of Finance shall ensure that the Board is informed of the nature and extent of the risks that are self insured as a result of this decision. The Director of Finance will draw up formal documented procedures for the management of any claims arising from third parties and payments in respect of losses which will not be reimbursed.
- (3) All the risk pooling schemes require Scheme members to make some contribution to the settlement of claims (the 'deductible'). The Director Finance should ensure documented procedures also cover the management of claims and payments below the deductible in each case.