



## Birmingham and Solihull Mental Health NHS Foundation Trust

### Standing Financial Instructions (SFIs)

**April 2023**

|                                                       |                                                         |                      |
|-------------------------------------------------------|---------------------------------------------------------|----------------------|
| <b>POLICY NO &amp; CATEGORY</b>                       | SFI 01                                                  | Corporate Governance |
| <b>VERSION NO &amp; DATE</b>                          | 6.1                                                     | May 2023             |
| <b>RATIFYING COMMITTEE</b>                            | Board of Directors                                      |                      |
| <b>DATE RATIFIED</b>                                  | 3 May 2023                                              |                      |
| <b>NEXT ANTICIPATED REVIEW DATE:</b>                  | May 2024                                                |                      |
| <b>EXECUTIVE DIRECTOR</b>                             | Executive Director of Finance                           |                      |
| <b>POLICY LEAD</b>                                    | Executive Director of Finance                           |                      |
| <b>POLICY AUTHOR <i>(if different from above)</i></b> | Deputy Director of Finance & Head of Financial Services |                      |
| <b>FORMULATED VIA</b>                                 |                                                         |                      |

# Version Control

This document has been updated to reflect the Trust's responsibilities as a Lead Provider and Commissioner.

It is now in Three Parts.

## **Part 1: All Trust Activities**

|            |                                                                         |
|------------|-------------------------------------------------------------------------|
| Section 8  | Contracting for Commitment of Expenditure – removed, included in Part 2 |
| Section 9  | Contracting for Provision of Services – removed, included in Part 2     |
| Section 11 | Non-Pay Expenditure – removed, included in Part 2                       |
| Section 17 | Information Technology – removed, included in Part 2                    |
| Section 19 | Charitable Funds – removed, included in Part 2                          |
| Section 20 | Retention of Records – removed, included in Part 2                      |
| Section 21 | Risk Management and Insurance – removed, included in Part 2             |

## **Part 2: As a Provider**

|            |                                                               |
|------------|---------------------------------------------------------------|
| Section 8  | Contracting for Commitment of Expenditure – previously Part 1 |
| Section 9  | Contracting for Provision of Services - previously Part 1     |
| Section 11 | Non-Pay Expenditure – previously Part 1                       |
| Section 17 | Information Technology – previously Part 1                    |
| Section 19 | Charitable Funds – previously Part 1                          |
| Section 20 | Retention of Records – previously Part 1                      |
| Section 21 | Risk Management and Insurance – previously Part 1             |
| Section 23 | Business Development – previously Part 1                      |

## **Part 3: As a Commissioner**

|            |                                                               |
|------------|---------------------------------------------------------------|
| Section 8  | Contracting for Commitment of Expenditure – previously Part 1 |
| Section 9  | Contracting for Provision of Services - previously Part 1     |
| Section 11 | Non-Pay Expenditure – previously Part 1                       |
| Section 17 | Information Technology – previously Part 1                    |
| Section 20 | Retention of Records – previously Part 1                      |
| Section 21 | Risk Management and Insurance – previously Part 1             |
| Section 23 | Business Development – previously Part 1                      |

This April 2023 version will need the sections and numbering corrected throughout prior to receipt by Audit Committee.

## POLICY REQUIREMENT

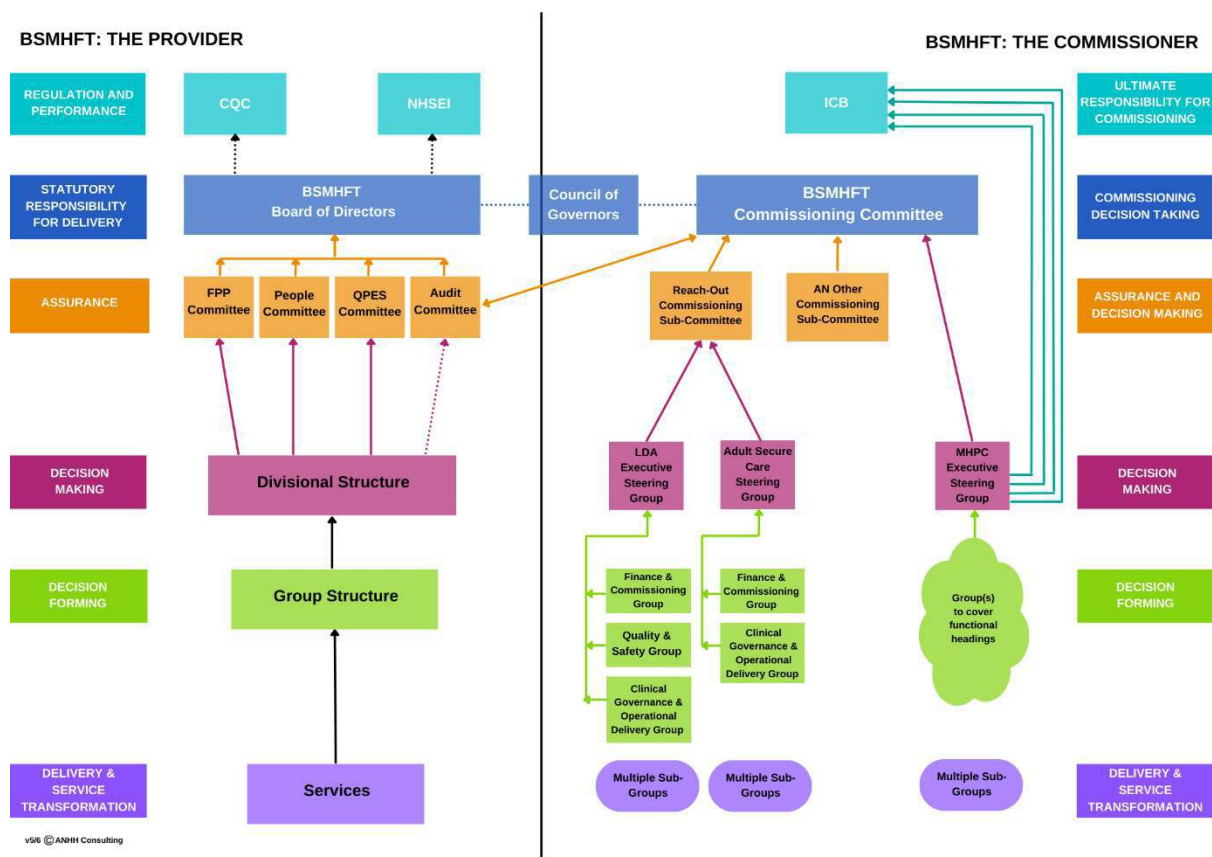
All staff are required to follow Trust Standing Financial Instructions without exception. Non-compliance with SFIs is a disciplinary matter which could result in dismissal.

## FOREWORD

These Standing Financial Instructions (SFIs), set out the financial governance arrangements adopted by the Trust (including subsidiaries, the Commissioning Committee (Board in Committee – incorporating ReachOut and the MHPC), and any other Operations). They are designed to ensure that financial transactions are carried out in accordance with the law and with Government policy and the latest Code of Governance for NHS Provider Trusts (April 2023) to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the Reservation of Powers to the Board and the Commissioning Committee and Delegation of Powers (Scheme of Delegation) adopted by the Trust.

The Standing Financial Instructions have been updated (April 2023) to reflect the new Governance Architecture within the Trust.

The new architecture is shown in the diagram below. To ensure clear separation between the Trust's provider and commissioning roles, as required by legislation, a Commissioning Committee ("CoCo") has been established as the ultimate assurance and decision taking forum for commissioning and lead provider responsibilities. The CoCo will be the "Board in Committee", i.e., it will have the equivalent authority to the Board. Accordingly, the Constitution also has been amended to incorporate Standing Orders for CoCo.



The Trust will continue to have two Memoranda of Understanding with the external auditors, one for audit of SSL (the Trust's trading arm subsidiary) Accounts, and the other for consolidated Accounts

that will incorporate SSL, the Trust's provider accounts, and the Trust's lead provider accounts (currently Reach Out and the Birmingham and Solihull Mental Health Provider Collaborative).

## CONTENTS

|                                                                            |               |
|----------------------------------------------------------------------------|---------------|
| <b>PART ONE: INSTRUMENTS FOR ALL TRUST ACTIVITIES</b>                      | <b>6</b>      |
| 1 Introduction                                                             | 7             |
| 2 Audit                                                                    | 11            |
| 3 Service and Business Planning, Budgets, Budgetary Control and Monitoring | 15            |
| 4 Annual Accounts and Reports                                              | 19            |
| 5 Banking Arrangements                                                     | 20            |
| 6 Income, Fees, and Charges                                                | 21            |
| 7 Security of Cash, Cheques, Controlled Documents and Related Arrangements | 22            |
| 8 Employment Terms & Conditions                                            | 24            |
| 9 External Borrowing, Public Dividend Capital & Investments                | 27            |
| 10 Capital Investment                                                      | 28            |
| 11 Fixed Asset Registers and Security of Assets                            | 29            |
| 12 Stores and Receipt of Goods                                             | 31            |
| 13 Disposals and Condemnations, Losses, and Special Payments               | 32            |
| 14 Patients' Property                                                      | 34            |
| 15 Standards of Business Conduct                                           | 35            |
| <br><b>PART TWO: BSMHFT AS A PROVIDER</b>                                  | <br><b>42</b> |
| 1 Contracting for Commitment of Expenditure                                | 43            |
| 2 Contracting for Provision of Services                                    | 54            |
| 3 Non-Pay Expenditure                                                      | 56            |
| 4 Information Technology                                                   | 60            |
| 5 Charitable Funds                                                         | 62            |
| 6 Retention of Records                                                     | 65            |
| 7 Risk Management and Insurance                                            | 66            |
| 8 Business Development                                                     | 67            |
| <br><b>PART THREE: BSMHFT AS A COMMISSIONER</b>                            | <br><b>68</b> |
| 1 Contracting for Commitment of Expenditure                                | 69            |
| 2 Contracting for Provision of Services                                    | 80            |
| 3 Non-Pay Expenditure                                                      | 82            |
| 4 Information Technology                                                   | 86            |
| 5 Retention of Records                                                     | 88            |
| 6 Risk Management and Insurance                                            | 89            |
| 7 Business Development                                                     | 90            |

**PART 1**  
**(Instruments for All Trust Activities)**

# 1 INTRODUCTION

## 1.1 WHY STANDING FINANCIAL INSTRUCTIONS ARE IMPORTANT

- 1.1.1 NHS Foundation Trusts are limited by Acts of Parliament in what they can do. These SFIs set out the financial responsibilities and policies adopted by the Trust (including subsidiaries, the Commissioning Committee (“CoCo”) (Board in Committee – incorporating ReachOut and the MHPC, and any other Operations). They are designed to ensure that financial transactions are carried out in accordance with the law and with Government policy and the latest Code of Governance for NHS Provider Trusts (April 2023) to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the Reservation of Powers to the Board and the Commissioning Committee and Delegation of Powers (Scheme of Delegation) adopted by the Trust.
- 1.1.2 These SFIs are issued in accordance with the Directions of the Secretary of State under the provisions of Sections 99(3), 97(A)(4) and (7) of the National Health Service Act 1977, the Health Act 2009, Health and Care Act 2022 any other change in legislation concluding with the Health and Social Care Act 2022, for the regulation of the conduct of the Trust in relation to all financial matters. They have the same authority as the Standing Orders of the Trust.
- 1.1.3 These SFIs identify the financial responsibilities which apply to everyone working for the Trust. They do not provide detailed procedural advice. These statements should therefore be read in conjunction with any detailed departmental and financial procedure notes. All financial procedures must be approved by the Executive Director of Finance. The SFI’s can be found on the Trust’s Intranet via the Finance Pages.
- 1.1.4 Should any difficulties arise regarding the interpretation or application of any of the SFIs then the advice of the Executive Director of Finance or other nominated officers, **MUST BE SOUGHT BEFORE ACTING**. The user of these SFIs should also be familiar with and comply with the provisions of the Trust Standing Orders and Scheme of Delegation.
- 1.1.5 Failure to comply with SFIs is a disciplinary matter which could result in dismissal. Non-compliance with these SFIs will be monitored and will be reported regularly to the Audit Committee.
- 1.1.6 The key points from each section in this document have been summarised at the front of each respective section for ease of reference. However, these summaries are not a substitute for reading the whole of this document.

## 1.2 TERMINOLOGY

- 1.2.1 Any expression to which a meaning is given in Health Service Acts, or in the Financial Directions made under the Acts, shall have the same meaning in these instructions; and
  - a) **“Trust”** means the Birmingham & Solihull Mental Health NHS Foundation Trust (including subsidiaries, the CoCo and any other Operations)
  - b) **“Board of Directors”** and/or **“Board”** mean the Board of Directors as constituted in accordance with the constitution of the Trust.

- c) **“Commissioning Committee”** and/or **“CoCo”** mean the BSMHFT Board in Committee for all Provider Collaboratives for which the Trust has Lead Provider responsibility.
  - d) **“Council of Governors”** means the Council of Governors as constituted in accordance with the constitution of the Trust.
  - e) **“Budget”** means a resource, expressed in financial terms, proposed by the Trust for the purpose of carrying out, for a specific period, any or all of the functions of the Trust.
  - f) **“Budget Owner”** means the director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation.
  - g) **“Chief Executive”** means the chief officer of the Trust and the accounting officer
  - h) **“Executive Director of Finance”** means the Chief Financial Officer of the Trust.
  - i) **“Company Secretary”** means the Company Secretary of the Trust.
  - j) **“The Chair”** is the Chair of the Board of Directors, the Commissioning Committee (Board in Committee), and the Council of Governors.
  - k) **“Scheme of Delegation”** means the Reservation of Powers to the Board and Delegation of Powers adopted by the Trust.
- 1.2.2 Wherever the title Chief Executive, Executive Director of Finance, or other nominated officer is used in these instructions, it shall be deemed to include such other director or employees who have been duly authorised to represent them.
- 1.2.3 Wherever the term **“employee”** is used it shall be deemed to include employees of third parties contracted to the Trust when acting on behalf of the Trust.

### 1.3 RESPONSIBILITIES AND DELEGATION

- 1.3.1 The Board and the CoCo exercise 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)
  - d) defining specific responsibilities placed on directors and employees as indicated in the Scheme of Delegation.
- 1.3.2 The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These are set out in the Scheme of Delegation.
- 1.3.3 The Board will delegate responsibility for the performance of its functions in accordance with the Trust’s Scheme of Delegation. This will be kept under review by the Board.
- 1.3.4 It is acknowledged that the Chief Executive is ultimately accountable to the Board, and as accountable officer to the Secretary of State, for ensuring that the Board meets its obligation to perform its functions within the available financial resources. The Chief Executive has overall executive responsibility for the Trust activities, is responsible to the Board for ensuring that its financial obligations and targets are met and has overall responsibility for the Trust system of internal control.

- 1.3.5 The Chief Executive and Executive Director of Finance will, as far as possible, delegate their detailed responsibilities but they remain accountable for financial control.
- 1.3.6 The Executive Director of Finance is responsible for:
- a) implementing the Trust's financial policies and for co-ordinating any corrective action necessary to further these policies
  - b) ensuring that detailed financial procedures and systems, including separation of duties and internal checks, are documented and maintained to supplement these instructions
  - c) ensuring that sufficient records are maintained to show and explain the Trust's transactions, in order to disclose, with reasonable accuracy, the financial position of the Trust at any time and
  - d) without prejudice to any other functions of directors and employees to the Trust, the duties of the Executive Director of Finance include:
    - i. the provision of financial advice to the Trust, the Board, the CoCo, and Governors of the Trust, and employees
    - ii. the design, implementation and supervision of systems of financial control
    - iii. the preparation and maintenance of such accounts, certificates, estimates, records and reports as the Trust may require for the purpose of carrying out its statutory duties.
- 1.3.7 All directors and employees, individually and together, are responsible for:
- a) the security of the property of the Trust
  - b) avoiding loss
  - c) exercising economy and efficiency in the use of resources
  - d) conforming to the requirements of NHS England (July 2022), the Terms of Authorisation, Constitution, Standing Orders, SFIs, Financial Procedures and Scheme of Delegation.
- 1.3.8 Any contractor or employee of a contractor who is empowered by the Trust to commit the Trust to expenditure or who is authorised to obtain income shall be covered by these instructions. It is the responsibility of the Chief Executive to ensure that such persons are made aware of this.
- 1.3.9 For any and all directors and employees who carry out a financial function, the form in which financial records are kept and the manner in which directors and employees discharge their duties must be to the satisfaction of the Executive Director of Finance.
- 1.3.10 It is a duty of the Chief Executive to ensure that existing directors and employees and all new appointees are notified of and understand their responsibilities within these Instructions.
- 1.3.11 For any and all directors and employees who carry out a financial function, the form in which financial records are kept and the manner in which directors and employees discharge their duties must be to the satisfaction of the Executive Director of Finance.
- 1.3.12 Wherever possible and subject to the availability of establishments resources, procedures should be designed to achieve the maximum possible separation of

duties, such that one individual is not enabled to initiate, manage and complete a financial transaction or process.

- 1.3.13 Standing Financial Instructions will be temporarily added to as an ad hoc basis by the issue of a "Financial Items" circular within the Trust. The issue of this Circular is the responsibility of the Executive Director of Finance.

## **2 AUDIT**

*(see also Section 16.2 – re theft, arson, fraud, other losses and police involvement)*

### *Key Points*

*It is the responsibility of all employees that robust controls are in operation over all financial processes. The Audit Committee will monitor the effectiveness of systems and controls.*

### **2.1 AUDIT COMMITTEE**

- 2.1.1 In accordance with Standing Orders, the Board has formally established an Audit Committee, with clearly defined and approved terms of reference which include overseeing the process for the appointment of the internal auditors. This Committee will provide an independent and objective view of internal control.
- a) Overseeing Internal and External Audit services
  - b) Reviewing systems
  - c) Monitoring compliance with Standing Financial Instructions
  - d) Reviewing schedules of losses and special payments and making recommendations to the Board
  - e) Reviewing the policies and procedures for all work relating to fraud and corruption
  - f) Review of risks.
- 2.1.2 Where the Audit Committee feel there is evidence of ultra-vires transactions, evidence of improper acts (other than fraud and corruption), or if there are other important matters that the committee wish to raise, the Chair of the Audit Committee should raise the matter at a full meeting of the Board.

### **2.2. FRAUD, BRIBERY AND CORRUPTION**

- 2.2.1 Compliance with the Secretary of State directions on fraud and corruption is not now obligatory for Foundation Trusts but the Chief Executive and the Executive Director of Finance shall apply best practice taking into account the Secretary of State's directions.
- 2.2.2 The Fraud Act 2006 details the main offences of fraud. An act of fraud can be defined as a dishonest intent to cause a financial gain for themselves, or someone else, and cause a loss, or risk of loss to another. There are three main offences; false representation; failing to disclose information; and abuse of position. The maximum penalty that can be imposed for someone who has committed fraud is ten-years' imprisonment.
- 2.2.3 Corruption can be defined as dishonest, fraudulent, or illegal conduct by those in power; this can include bribery and kickbacks. The Bribery Act 2010 details the main offences for bribery in the UK. An act of bribery can be defined as the offering, giving, requesting, or accepting of a financial or other advantage in order to induce improper behaviour. Similar to fraud, the maximum penalty an individual can receive if they have committed fraud is ten years' imprisonment. Organisations can receive an unlimited fine or reputational damage.

- 2.2.4 Any employee discovering or suspecting fraud or bribery must either immediately inform the Executive Director of Finance or inform the Local Counter Fraud Specialist who will then appropriately inform the Executive Director of Finance and/or Chief Executive. The Local Counter Fraud Specialist will provide a written report, at least annually, on counter fraud work within the Trust and will attend Audit Committee meetings as required. For further information please refer to the Trust's Anti-Fraud, Bribery and Corruption Policy.

## **2.3 ROLE OF THE EXECUTIVE DIRECTOR OF FINANCE**

- 2.3.1 The Executive 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) managing internal audit and ensuring that the internal audit is adequate
  - c) deciding at what stage to involve the police in cases of misappropriation and other irregularities
  - d) ensuring that an annual internal audit report is prepared for the consideration of the Audit Committee and the Board. The report must cover:
    - i. a clear statement on the effectiveness of internal control
    - ii. major internal financial control weaknesses discovered
    - iii. progress on the implementation of internal audit recommendations
    - iv. progress against plan over the previous year
    - v. strategic audit plan covering the coming three years
    - vi. a detailed plan for the coming year.
- 2.3.2 The Executive Director of Finance or designated auditors are entitled without necessarily giving prior notice to require and receive:
- a) access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature
  - b) access at all reasonable times to any land, premises or employee of the Trust
  - c) the production of any cash, stores or other property of the Trust under an employee's control
  - d) explanations concerning any matter under investigation.

## **2.4 ROLE OF INTERNAL AUDIT**

- 2.4.1 Internal audit is an independent appraisal function of the Trust, designed to assist the Board and all levels of management to fulfil their corporate governance responsibilities.
- 2.4.2 The Internal Audit service will be subject to appropriate competitive procurement in line with these SFIs.
- 2.4.3 The terms of reference, the respective responsibilities of each party, the agreed services and total fee payable, together with the agreed qualitative and quantitative levels of performance shall be specified in the contract between both parties.
- 2.4.4 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 Executive Director of Finance must be notified immediately.

- 2.4.5 The Executive Director of Finance is responsible for the appointment of Internal Auditors in line with a process as agreed with the Audit Committee and will manage the Internal Audit contract.
- 2.4.6 The services provided under the Contract will be planned, carried out and managed in accordance with the NHS Internal Audit Standards and Internal Audit Manual.
- 2.4.7 The Internal Audit Provider will retain the right to plan, perform and report audit work independently.
- 2.4.8 The Internal Audit Provider will liaise with the Trust's Chief Executive, Executive Director of Finance, Company Secretary and the Audit Committee when drawing up a detailed audit plan for the forthcoming year. The plan will be based on a demonstrable assessment of risk and will show what areas are to be addressed, why they should be addressed and the benefits to the organisation of each risk and area audited.
- 2.4.9 Internal Audit will review, appraise and report upon:
  - a) the effectiveness of the internal control system (financial, organisational and clinical)
  - b) the extent of compliance with, and the financial effect of, relevant established policies, plans and procedures
  - c) the adequacy and application of financial and other related management controls
  - d) the integrity and suitability of management information and relevant data
  - e) the extent to which the Trust assets and interests are accounted for and safeguarded from loss of any kind, arising from:
    - i. fraud and other offences
    - ii. waste, extravagance, inefficient administration
    - iii. poor value for money or other causes.
- 2.4.10 The Internal Audit Provider will attend Audit Committee meetings and has a right of access to all Audit Committee members, the Chair and Chief Executive of the Trust.
- 2.4.11 The Internal Audit Provider shall be accountable to the Executive Director of Finance. The reporting system for internal audit shall be agreed between the Executive Director of Finance, the Audit Committee and the Head of Internal Audit. The agreement shall be in writing and shall comply with the prevailing guidance. The reporting system shall be reviewed at least every three years.
- 2.4.12 The Head of Internal Audit will liaise with the appointed external auditor and other organisations as necessary. Internal and external audit plans should be coordinated and maximise added value to the Trust.

## **2.5 ROLE OF EXTERNAL AUDIT**

- 2.5.1 The external auditor is appointed by the Council of Governors. The Audit Committee must ensure that the auditor provides a cost-efficient service. Should there appear to be a problem this should be resolved in accordance with the Audit Code for NHS Foundation Trusts.

- 2.5.2 The amount of fees payable other than for the statutory audit should not exceed 25% of audit fee. Assignments over £10,000 require the approval of the Audit Committee. Competitive tendering is required in line with these SFIs.

### **3 SERVICE AND BUSINESS PLANNING, BUDGETS, BUDGETARY CONTROL AND MONITORING**

*Key Points: All budgets should be set in accordance with the aims and objectives set out in the annual plan.*

*All budget virements should be appropriately authorised in line with the procedure set out below.*

*Any failure to comply with the budgetary control procedures will be reported to Audit committee and may result in disciplinary action.*

#### **3.1 PREPARATION AND APPROVAL OF SERVICE AND BUSINESS PLANS AND BUDGETS**

3.1.1 The Chief Executive will compile and submit to the Board, the CoCo, and Council of Governors an annual business plan which takes into account financial targets and forecast limits of available resources. The Annual 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.
- c) a summary Financial Plan.
- d) such other requirements as may be determined by the Independent Regulator for Foundation Trusts.

3.1.2 The Executive 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 Annual 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; and
- e) identify potential risks.

3.1.3 The Executive Director of Finance shall monitor financial performance against budget and service plan, periodically review them, and report to the Board.

3.1.4 All budget owners must provide information as required by the Executive Director of Finance to enable budgets to be compiled.

3.1.5 Service changes and developments must be financially appraised and include the FULL recovery of overheads and margin, unless agreed with the Executive Director of Finance.

3.1.6 The Executive Director of Finance has a responsibility to ensure that adequate training is delivered to all new members of staff that will have financial responsibilities before they take up their new responsibilities.

3.1.7. Budget owners are responsible for ensuring that they are adequately trained so that allocated budgets can be managed successfully. Where necessary the Executive Director of Finance will provide training to assist in budget management.

## 3.2 BUDGETARY DELEGATION

3.2.1 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 available as predetermined by the contracted service specification.
- b) the purpose(s) of each budget heading.
- c) individual responsibilities and group objectives.
- d) authority to exercise virement/budget journal.
- e) definition of planned levels of service.
- f) the provision of regular reports.

3.2.2 The Chief Executive and delegated budget owners must not exceed the budgetary total or virement limits set by the Board. Confirmation from all parties must be received before budget virements will be entered into the ledger. Authorisation requirements for budget moves are detailed below:

**a) Budget moves within agreed programme start points: -**

- i. Pay moves within report – approval must be given by team/ward manager and programme manager to ensure a consistent approach across the programme.
- ii. Pay moves within programme – approval must be given by the ‘giving’ manager and ‘receiving’ manager, and overall approved by their programme manager.
- iii. Non Pay moves within report – approval must be given by team/ward manager.
- iv. Non Pay moves within programme – approval must be given by the ‘giving’ manager and ‘receiving’ manager.
- v. Operating Income moves within report - approval must be given by team/ward manager.
- vi. Operating Income moves within programme – approval must be given by the ‘giving’ manager and ‘receiving’ manager.

**b) Budget moves between programmes within agreed service area start points**

- i. Pay, Non Pay and Operating Income budget moves between programmes – approval must be given by the ‘giving’ and ‘receiving’ managers and their programme managers.

**c) Budget moves between service areas**

- i. Pay, Non Pay and Operating Income budget moves between divisions – approval must be given by the ‘giving’ and ‘receiving’ managers, programme managers and service directors.

**d) Budget Transfers Healthcare Income.**

- i. All budget moves relating to Healthcare Income will need to be approved by the Deputy Director of Finance or the Executive Director of Finance.

**e) Budget Transfers Reserves**

- i. All budget moves from reserves will need to be approved by the Deputy Director of Finance or the Executive Director of Finance.

**f) Budget Transfers Estates & Facilities**

- i. All budget moves relating to estates & facilities will need to be approved by an estates manager.

**g) Budget Transfers between Pay & Non Pay (excluding savings)**

- i. Any disputes in the transfer of budget between service areas or Directorates will be escalated to the relevant Executive Director for resolution.

3.2.3 Expenditure for which no provision has been made in an approved budget and which is not subject to funding under delegated powers of virement shall only be incurred after proper authorisation - i.e. by the Chief Executive, or the Chair and Chief Executive jointly, or the Board as appropriate within delegated limits.

3.2.4 Unless approved by the Chief Executive, individually or jointly with the Chair, after taking the advice of the Executive Director of Finance, budgets shall only be used for the purpose for which they were provided. Any budgeted funds not required for their designated purpose(s) revert to the immediate control of the Chief Executive, subject to any authorised use of virement.

3.2.5 Non-recurring budgets shall not be used to finance recurring expenditure without the authority in writing of the Chief Executive, or Executive Director of Finance.

### **3.3 BUDGETARY CONTROL AND REPORTING**

3.3.1 The Executive Director of Finance will devise and maintain systems of budgetary control. These will include:

- a) monthly financial reports to the Board and the CoCo in a form approved by the Board and the CoCo containing:
  - i. income and expenditure to date and forecast year-end position.
  - ii. movements in working capital; detailed balance sheet analysis including debtors and creditor movements.
  - iii. Cash flow forecasts.
  - 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 Executive 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 owner, covering the areas for which they are responsible.
- c) investigation and reporting of variances from budgets.
- d) monitoring of management action to correct variances.
- e) arrangements for the authorisation of budget transfers.
- f) adequate on-going training to budget holders and budget managers to help them manage successfully.

3.3.2 Each Budget owner 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 Executive Director of Finance or Chief Executive.

- b) the amount provided in the approved budget is not used in whole or in part for any purpose other than that specifically authorised subject to the rules of virement.
  - c) no permanent employees are appointed without the approval of the Chief Executive other than those provided for in the budgeted establishment as approved by the Board.
- 3.3.3 The Executive Director of Finance shall keep the Chief Executive and the Board informed of the financial consequences of changes in policy, pay awards, and other events and trends, whether national, local, or internal, affecting budgets and shall advise on the financial and economic aspects of future plans and projects.
- 3.3.4 The Chief Executive is responsible for identifying and implementing cost improvements and income generation initiatives in accordance with the requirements of the Annual Business Plan and a balanced budget.

### **3.4 CAPITAL EXPENDITURE**

- 3.4.1 Expenditure on fixed assets for the Trust must follow the correct delegation and reporting lines specifically designed for approval of capital expenditure detailed in the delegation of powers.
- 3.4.2 Fixed assets should not be purchased from revenue funds.

### **3.5 PERFORMANCE MONITORING**

- 3.5.1 The Chief Executive is responsible for ensuring that the appropriate monitoring forms are submitted to the Board and to NHS England.
- 3.5.2 The internal monitoring of the Trustwide and service area business plans will take place through periodic performance reviews, as defined by the Chief Executive.

## **4 ANNUAL ACCOUNTS AND REPORTS**

### *Key Points*

*The Trust is required to prepare an annual report, annual accounts and forward plans which must comply with any directions given by the Trusts regulator.*

### **4.1 ANNUAL ACCOUNTS**

- 4.1.1 The Trust (through its Chief Executive and Accountable Officer) shall prepare in respect of each Financial Year annual accounts in such form as NHS England may, with the approval of the Treasury, direct.
- 4.1.2 In preparing its annual accounts, the Trust shall comply with any directions given by NHS England with the approval of the Treasury as to:
  - a) The methods and principles according to which the accounts are to be prepared; and
  - b) The information to be given in the accounts.
- 4.1.3 The Trust shall:-
  - a) Lay a copy of the annual accounts, and any report of the auditor on them, before Parliament; and
  - b) Provide financial information to NHS England in accordance with the timetable prescribed by NHS England.

### **4.2 ANNUAL REPORT AND FORWARD PLANS**

- 4.2.1 The Trust shall prepare annual reports and send them to NHS England. The reports are to give:-
- 4.2.2 Information on any steps taken by the Trust to secure that (taken as a whole) the actual membership of any public constituency and the Patients' constituency is representative of those eligible for such membership; and
- 4.2.3 Any other information that NHS England requires.
- 4.2.4 The Trust shall comply with any decision NHS England makes as to:-
  - a) the form of the reports
  - b) when the reports are to be sent
  - c) the periods to which the reports are to relate.
- 4.2.5 The Trust shall give information as to its forward planning in respect of each financial year to NHS England. This information shall be prepared by the Board, who must have regard to the views of the Council of Governors.
- 4.2.6 The annual report shall also be held at the Trust Headquarters (Uffculme Centre) for public inspection and shall be made available via the Trust's website.
- 4.2.7 The Trust's annual accounts, any report of the auditor on them and annual report must be presented to the Council of Governors at a public meeting together with, where applicable, summary financial statements.

## **5 BANKING ARRANGEMENTS**

### *Key Points*

*All funds must be held in the name of the Trust. No employees other than the Executive Director of Finance shall open any bank accounts in the name of the Trust and the Trust address will not be used for unofficial Trust business.*

### **5.1 GENERAL**

- 5.1.1 The Executive Director of Finance is responsible for managing the Trust's banking arrangements and that of any wholly owned subsidiaries and for advising the Trust on the provision of banking services and the operation of accounts.
- 5.1.2 All funds of the Trust shall be held in accounts in the name of the Trust. No employee other than the Executive Director of Finance shall open any bank account in the name of the Trust.
- 5.1.3 Non-Trust bank accounts must not be opened using Trust addresses, with the exception of wholly owned subsidiaries where the registered address is a Trust address.
- 5.1.4 The Board shall approve the banking arrangements.

### **5.2 BANK AND GBS ACCOUNTS**

- 5.2.1 The Executive Director of Finance is responsible for:
  - a) bank accounts and Government Banking Service (GBS) accounts;
  - b) establishing separate bank accounts for the Trust non-exchequer funds;
  - c) approving the use of any Working Capital facility arrangements the Trust has
  - d) reporting to the Board all arrangements made with the Trust bankers for accounts to be overdrawn.

### **5.3 BANKING PROCEDURES**

- 5.3.1 The Executive Director of Finance will prepare detailed instructions on the operation of bank accounts which must include:
  - a) the conditions under which each bank account is to be operated;
  - b) the limit to be applied to any overdraft; and
  - c) those authorised to sign cheques or other orders drawn on the Trust accounts.
- 5.3.2 The Executive Director of Finance must advise the Trust bankers in writing of the conditions under which each account will be operated.
- 5.3.3 The Executive Director of Finance may enter into a formal agreement with other bodies for payment to be made on behalf of the Trust by electronic funds transfer (e.g. BACS). Where such an agreement is entered into, the Executive Director of Finance shall ensure satisfactory security arrangements are made.

## **6 INCOME, FEES, AND CHARGES**

*Key Points:*

*The Executive Director of Finance must approve all contracts for income. It is the employees' responsibility to inform the Executive Director of Finance of any income generated outside of contract.*

### **6.1 INCOME SYSTEMS**

- 6.1.1 The Executive Director of Finance is responsible for designing, maintaining and ensuring compliance with systems for the proper recording, invoicing, collection and coding of all monies due.
- 6.1.2 The Executive Director of Finance is also responsible for the prompt banking of all monies received.

### **6.2 FEES AND CHARGES**

- 6.2.1 The Trust will price its service contracts with NHS commissioners according to national tariffs published by the Department of Health. In areas where national tariff arrangements do not apply, the Trust shall follow the Department of Health's advice in the "approved costing guidance" in setting prices for NHS service contracts.
- 6.2.2 The Executive 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 valuations shall be taken as necessary.
- 6.2.3 All employees must inform the Executive Director of Finance promptly of money due arising from transactions which they initiate or deal with, including all contracts, leases, tenancy agreements, private patient undertakings and other transactions. The Executive Director of Finance shall approve all contracts for income.
- 6.2.4 Only designated staff, identified by the Executive Director of Finance, may raise invoices on behalf of the Trust.

### **6.3 DEBT RECOVERY**

- 6.3.1 The Executive Director of Finance is responsible for the appropriate recovery action on all outstanding debts.
- 6.3.2 Income not received should be dealt with in accordance with losses procedures and statutory accounting procedures.
- 6.3.3 Overpayments should be detected (or preferably prevented) and recovery initiated by designated staff identified by the Executive Director of Finance.

## **7 SECURITY OF CASH, CHEQUES, CONTROLLED DOCUMENTS AND RELATED ARRANGEMENTS**

### *Key Points*

*Employees who handle cash, cheques and controlled documents must follow the procedures set out by the Executive Director of Finance but are responsible for local operation of controls.*

*An employee, who receives payments directly in any form, must pass payments immediately to a cashier or holder of a safe or cash box.*

- 7.1 The Executive Director of Finance shall prescribe systems and procedures for any handling cash, petty cash, pre-signed cheques and negotiable securities on behalf of the Trust, including:-
- 7.1.1 approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable.
  - 7.1.2 ordering and securely controlling any such stationery.
  - 7.1.3 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; and
  - 7.1.4 arrangements for safe-keeping of duplicate keys and for the replacement of lost keys.
  - 7.1.5 procedures for receiving and banking of cash, cheques and other forms of payment.
  - 7.1.6 circumstances in which unofficial funds may be deposited in safes (see also 7.10 below).
- 7.2 Employees shall be informed in writing on appointment, of their responsibilities and duties for the collection, handling or distribution of cash, cheques etc. Employees who are appointed with this responsibility must ensure they adhere to the 'Control of Cash Floats, access to Safes and Banking procedures' or any other procedures issued by the Executive Director of Finance.
- 7.3 Any employee whose duty it is to collect or hold cash shall be provided with a safe or with a lockable cash-box which will normally be deposited in a safe. The employee concerned shall hold only one key.
- 7.4 During the absence (e.g., on holiday) of the holder of a safe or cash-box key, the employee who acts in their place shall be subject to the same controls as the normal holder of the key. There shall be written discharge for the safe and/or cash-box contents on the transfer of responsibilities and the discharge document must be retained for inspection.
- 7.5 All cash, cheques and other forms of payment received by any other employee shall be passed immediately to the holder of a safe or cash-box key or to the cashier, from whom a signed receipt shall be obtained.
- 7.6 All cheques, postal orders, cash etc., shall be banked intact. Disbursements shall not be made from cash received, except under arrangements approved by the Executive Director of Finance.
- 7.7 Official money may never be used for the encashment of private cheques.

- 7.8 The opening of coin operated machines (including telephones) and the counting and recording of the takings must at all times be undertaken by two employees together. The coin-box keys shall be held only by a nominated employee.
- 7.9 Any loss or shortfall of cash, cheques or other cash equivalents, however occasioned, shall be reported immediately in accordance with the agreed procedure for reporting losses (see also Section 16 Disposals, Losses and Special Payments).
- 7.10 The holders of safe keys shall not accept unofficial funds for depositing in their safes unless such deposits are in special sealed envelopes or locked containers. It shall be made clear to the depositors that the Trust is not to be held liable for any loss, and written indemnities must be obtained from the organisation or individuals absolving the Trust from responsibility for any loss.
- 7.11 Maximum limits for cash holdings shall be agreed with the Executive Director of Finance or designated staff and shall not be exceeded without their express permission in writing.
- 7.12 Reimbursement to members of staff, or patients, for individual items of expenditure out of petty cash shall not exceed the limits set out in the Scheme of Delegation.

## **8 EMPLOYMENT TERMS & CONDITIONS**

### *Key points*

*All budget owners must ensure they follow the employment procedures approved by the Trust and only recruit up to the funded establishments.*

*Budget managers are responsible for ensuring that commencement notifications, change notifications (e.g., when an employee changes grade or hours), and termination notifications are promptly sent to Finance.*

*All expense claims should be approved by the relevant budget owner and submitted in a timely manner.*

*Any failure to comply with the employment procedures will be reported to Audit committee and may result in disciplinary action.*

### **8.1 REMUNERATION AND TERMS OF SERVICE**

- 8.1.1 The Board should formally agree and record in the minutes of its meetings, the precise terms of reference of the Remuneration Committee, specifying which posts fall within its area of responsibility, its composition, and the arrangements for reporting.
- 8.1.2 The Board will approve proposals presented by the Chief Executive for setting of remuneration and conditions of service for those employees not covered by the Committee's remit or by Advance Letter from the Department of Health.
- 8.1.3 An annual review of staff on ad-hoc pay arrangements will be undertaken annually by the Deputy Director of Human Resources.
- 8.1.4 The Trust will remunerate the Chair and Non-Executive Directors in accordance with instructions issued by the Council of Governors.

### **8.2 FUNDED ESTABLISHMENT**

- 8.2.1 The workforce plans incorporated within the annual budget will form the funded establishment.
- 8.2.2 The funded establishment of any service area or directorate may not be varied without the approval of the Executive Director lead for that area, following the Trust's organisational change policy and procedures.

### **8.3 STAFF APPOINTMENTS**

- 8.3.1 No director or employee may engage, re-engage, or regrade 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 within the limit of their approved budget and funded establishment.
- 8.3.2 The Trust will have a recruitment & selection policy which will be used for all recruitment processes and is up to date with legislation, collective agreements, NHS guidelines and good practice.

## **8.4 PROCESSING OF PAYROLL**

8.4.1 The Executive Director of Finance is responsible for:

- a) specifying timetables for submission of properly authorised time records and other notifications;
- b) ensuring that pay information is accurately reflected in the financial records of the Trust;
- c) making payment on agreed dates; and
- d) agreeing methods of payment.

8.4.2 The Executive Director of Finance will in conjunction with the incumbent payroll agency issue instructions regarding:

- a) verification and documentation of data;
- b) the timetable for receipt and preparation of payroll and related data and the payment of employees;
- 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;
- h) procedures for payment by cheque or bank credit to employees;
- 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 for preparing records and handling cash; and
- m) a system to ensure the recovery from leavers of sums of money and property owed by them to the Trust.

8.4.3 Appropriately nominated managers have delegated responsibility for:

- a) submitting time records, and other notifications in accordance with agreed timetables;
- b) the certification of staff expense claims. The certification by the Budget Holder or Budget Manager shall be taken to mean they are satisfied that the journeys made were authorised, that expenses claimed were properly and necessarily incurred and that allowances are properly payable by the Trust. Eligible employees authorised claims for reimbursement of expenses shall be in a form approved by the Executive Director of Finance. Completed and authorised claims, supported by receipts as appropriate, shall be submitted to the budget manager on a regular basis in accordance with an agreed timetable, and as soon as practicable after the expense has been incurred
- c) claims over six months old may not be paid, except at the discretion of the Executive Director of Finance or nominated officer
- d) completing time records and other notifications in accordance with the Executive Director of Finance 's instructions and in the form prescribed by the Executive Director of Finance; and

- e) submitting termination notifications in the prescribed form immediately upon knowing the effective date of an employee's resignation, termination or retirement. Where an employee fails to report for duty in circumstances that suggest they have left without notice, the Deputy Director of Human Resources must be informed immediately.
- 8.4.4 Regardless of the arrangements for providing the payroll service, the Executive 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 arrangements are made for the collection of payroll deductions and payment of these to appropriate bodies.
  - 8.4.5 Payment to an individual shall not be made in advance of the normal pay day, unless there are extenuating circumstances, supported in writing by the appropriate Budget owner, authorised by the Executive Director of Finance or nominated officer, and will not exceed the net pay due at the time of payment. Only in exceptional circumstances will an advance be made for payments for other outstanding payments other than basic salary.
  - 8.4.6 All new employees shall be paid monthly by bank credit transfer (BACS), unless otherwise agreed by the Executive Director of Finance. No employee will be able to transfer from payment by bank credit transfer to payment in cash.

## **8.5 CONTRACTS OF EMPLOYMENT**

- 8.5.1 The Board shall delegate responsibility to the Director responsible for HR 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.
- 8.5.2 Budget owners are responsible for dealing with variations to, and termination of, contracts of employment. Budget owners must inform Finance and HR, immediately after a change has been made, and in the case of terminations, as soon as the termination date is known.
- 8.5.3 The Board shall delegate responsibility to the Chief Executive or Executive Director of Finance for the authorisation of variations from Agenda for Change – Terms and Conditions of Service Handbook.
- 8.5.4 Any salary payments outside of the Pay Circular Agenda for Change or Pay Circular Medical & Dental must be approved by either the Chief Executive or Executive Director of Finance or the committees which determine pay in relation to Board members.

## **9 EXTERNAL BORROWING, PUBLIC DIVIDEND CAPITAL & INVESTMENTS**

### *Key Points*

*The trust must remain within the borrowing limit set by its regulator, NHS England. Only the Executive Director of Finance can borrow funds in the name of the Trust.*

### **9.1 EXTERNAL BORROWING**

- 9.1.1 Any application for a loan or overdraft or the use of any Working Capital Facility will only be made by the Executive Director of Finance or by an employee so delegated by him/her.
- 9.1.2 The Executive Director of Finance must prepare detailed procedural instructions concerning applications for loans and overdrafts.
- 9.1.3 All short term borrowings should be kept to the minimum period of time possible, consistent with the overall cash flow position. Any short term borrowing requirement in excess of one month must be authorised by the Executive Director of Finance.
- 9.1.4 All long term borrowing must be consistent with the plans outlined in the current Business Plan approved by the Board.

### **9.2 PUBLIC DIVIDEND CAPITAL**

- 9.2.1 The annual Public Dividend Capital Dividend must be calculated in accordance with the guidance issued by NHS England and authorised by the Executive Director of Finance or nominated officer.

### **9.3 INVESTMENTS OF SURPLUS CASH**

- 9.3.1 The Trust may invest surplus cash outside of the Government Banking System.
- 9.3.2 A treasury management policy will be formulated by the Executive Director of Finance and approved by the Board.
- 9.3.3 The Executive Director of Finance is responsible for short term investment of surplus cash and will ensure cash surpluses are only invested in safe harbours as defined by the Treasury Management policy.
- 9.3.4 All long term investments and investments outside of the Treasury Management policy must be approved by the Board.

## 10 CAPITAL INVESTMENT

### *Key Points*

*Capital investment relates to purchase of assets which will remain in use by the Trust for periods of greater than one year and cost £5,000 or more. Capital investment requires a business case to be approved by a nominated committee before the item can be acquired.*

### 10.1 CAPITAL INVESTMENT

#### 10.1.1 The Chief Executive:

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

10.1.2 For every capital expenditure proposal the Chief Executive shall ensure that a business case, prepared to a standard format as determined by the Board, is produced for approval by Capital Review Group.

10.1.3 Approval of the business case is in accordance with the scheme of delegation, provided the amount has already been included in the Capital Programme and approved by the Board.

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

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

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

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

- a) specific authority to commit expenditure;
- b) authority to proceed to tender;
- c) approval to accept a successful tender.

10.1.8 The Chief Executive, taking due account of the Standing Financial Instructions and the Scheme of Delegation document, will issue a scheme of delegation for capital investment management in accordance with 'Estatecode' guidance.

10.1.9 The Executive Director of Finance, taking due account of the 'Scheme of Delegation' document, shall issue procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes.

## **11 FIXED ASSET REGISTERS AND SECURITY OF ASSETS**

### *Key Points*

*All assets of the Trust must be securely maintained, separately identifiable and recorded within the Trusts Fixed Asset register. All losses, disposals or damages must be reported to the Executive Director of Finance.*

### **11.1 ASSET REGISTERS**

- 11.1.1 The Chief Executive is responsible for the maintenance of registers of assets, taking account of the advice of the Executive 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 at least once a year.
- 11.1.2 The Trust shall maintain an asset register recording fixed assets. The minimum data set to be held within these registers shall be in sufficient detail to allow full disclosure within the annual financial statements in accordance with International Financial Reporting Standards and any reporting guidance issued by NHS England.
- 11.1.3 Additions to the fixed asset register must be clearly identified, comply with accounting standards, the Trust's capital policy 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; and
  - c) lease agreements in respect of assets held under a finance lease and capitalised.
- 11.1.4 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).
- 11.1.5 The Executive Director of Finance shall approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.
- 11.1.6 The value of each asset shall be independently valued on a regular basis and reviewed for impairment.
- 11.1.7 The value of each asset shall be depreciated over the assets useful economic life. The economic life and residual value of the assets will reviewed on a regular basis.
- 11.1.8 Buildings should be designated protected or non-protected.

### **11.2 SECURITY OF ASSETS**

- 11.2.1 The overall control of assets is the responsibility of the Chief Executive however all employees have a responsibility to ensure that assets are securely maintained.

- 11.2.2 Asset control procedures (including fixed assets, cash, cheques and negotiable instruments, and also including donated assets) must be approved by the Executive Director of Finance. This procedure shall make provision for:
- a) recording managerial responsibility for each asset;
  - b) identification of additions and disposals;
  - c) physical security of assets;
  - d) periodic verification of the existence condition , and title to, assets recorded;
  - e) identification and reporting of all costs associated with the retention of an asset;  
and
  - f) reporting, recording and safekeeping of cash, cheques, and negotiable instruments.
- 11.2.3 All discrepancies revealed by verification of physical assets to fixed asset register shall be notified to the Executive Director of Finance.
- 11.2.4 Whilst each employee has a responsibility for the security of property of the Trust, it is the responsibility of directors 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 instructions.
- 11.2.5 Any damage to the Trust premises, vehicles and equipment, or any loss of equipment, stores or supplies must be reported by directors and employees in accordance with the procedure for reporting losses.
- 11.2.6 Where practical, assets should be marked as Trust property.

## 12 STORES AND RECEIPT OF GOODS

### *Key points*

*Stores of goods should be kept to a minimum with a stocktake where levels exceed £10,000 undertaken on an annual basis.*

- 12.1 Stores of consumables and equipment for immediate use exceeding £10,000 should be:
  - 15.1.1 kept to a minimum;
  - 15.1.2 subjected to annual stocktake;
  - 15.1.3 valued at the lower of cost and net realisable value.
- 12.2 Subject to the responsibility of the Executive 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 the Chief Executive to departmental employees and stores managers/keepers, subject to such delegation being entered in a record available to the Executive Director of Finance. The management of Pharmaceutical stocks shall be the responsibility of a designated Director of Pharmacy, but must comply with the systems of control set by the Executive Director of Finance.
- 12.3 The responsibility for security arrangements and the custody of keys for all stores and locations shall be clearly defined in writing by the designated manager/officer. Wherever practicable, stocks should be marked as health service property.
- 12.4 The Executive 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.
- 12.5 Stocktaking arrangements shall be agreed with the Executive Director of Finance and there shall be a physical check covering all items in store at least once a year. Trust stock held centrally in a warehouse should be subject to a continuous stocktaking process based on volume, value, and frequency of use.
- 12.6 Where a complete system of stores control is not justified, alternative arrangements shall require the approval of the Executive Director of Finance.
- 12.7 The designated Manager/officer shall be responsible for a system approved by the Executive 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 Executive Director of Finance any evidence of significant overstocking and of any negligence or malpractice (see also 13, 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.
- 12.8 For goods supplied via the NHS Supply Chain central warehouses. The authorised person shall check receipt against the delivery note before generating a goods received note on the e-procurement system.
- 12.9 All delivery points must be correctly identified and signposted.

## **13 DISPOSALS AND CONDEMNATIONS, LOSSES, AND SPECIAL PAYMENTS**

### *Key Points*

*Employees must notify the Executive Director of Finance of any proposed disposals.*

*Any employee discovering or suspecting a loss of any kind must either immediately inform the Executive Director of Finance or inform the Local Counter Fraud Specialist.*

### **13.1 DISPOSALS AND CONDEMNATIONS**

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

13.1.2 When it is proposed to dispose of a Trust asset, the head of department or authorised deputy will determine and advise the Executive Director of Finance of the estimated market value of the item, taking account of professional advice where appropriate and the Estatecode guidance issued by the Dept. of Health. The disposal shall be authorised in accordance with the Scheme of Delegation. Where appropriate and in conjunction with guidance issued by the regulator, NHS England, shall be notified and agree with any disposal of commissioned assets.

13.1.3 All unserviceable articles, or items beyond economic repair shall be:-

- a) condemned or otherwise disposed of by an employee authorised within the Scheme of Delegation
- b) recorded by the Condemning Officer in a form approved by the Executive 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 Executive Director of Finance.

13.1.4 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 Executive Director of Finance who will take the appropriate action.

### **13.2 LOSSES AND SPECIAL PAYMENTS**

13.2.1 Special payments are those which fall outside the normal day-to-day business of the Trust, or exceptionally, those for which no statutory authority exists. They fall into one of five (5) main categories:

- a) Compensation payments made under legal obligation.
- b) Extra contractual payments to contractors.
- c) Ex-gratia payments.
- d) Extra statutory or extra regulatory payments.
- e) Fruitless payments.

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

13.2.3 Any employee discovering or suspecting a loss of any kind must either immediately inform the Executive Director of Finance or inform the Local Counter Fraud Specialist who will then appropriately inform the Executive Director of Finance and/or Chief

Executive. Where a criminal offence is suspected, the Executive Director of Finance must inform the police if theft or arson is involved. If the case involves suspicion of fraud, then the particular circumstances of the case will determine when the police are notified.

- 13.2.4 For losses apparently caused by theft, fraud, arson, neglect of duty or gross carelessness, except if the value is less than £50,000, the Executive Director of Finance must immediately notify:
- a) the Board
  - b) the Local Counter Fraud Specialist.
  - c) the External Auditor
- 13.2.5 The Executive Director of Finance shall be authorised to take any necessary steps to safeguard the Trust's interests in bankruptcies and company liquidations.
- 13.2.6 The Executive Director of Finance shall maintain a Losses and Special Payments Register in which write-off action is recorded. A report shall be presented to the Audit Committee periodically.

## 14 PATIENTS' PROPERTY

### *Key Points*

*Patients and/or guardians must be informed on admission that the Trust does not accept responsibility or liability for patients' property brought into Trust premises, unless it is handed in for safe custody and a copy of an official patients' property record is obtained as a receipt.*

- 14.1 The Trust has a responsibility to provide safe custody for money and other personal property (hereafter referred to as "**property**") handed in by patients, in the possession of unconscious or confused patients, or found in the possession of patients dying in hospital.
- 14.2 The Chief Executive is responsible for ensuring that patients or their guardians, as appropriate, are informed before or at admission by:
  - 14.2.1 notices and information booklets,
  - 14.2.2 hospital admission documentation and property records,
  - 14.2.3 the oral advice of administrative and nursing staff responsible for admissions,
  - 14.2.4 ensuring that the Trust will not accept responsibility or liability for patients' property brought into Trust premises, unless it is handed in for safe custody and a copy of an official patients' property record is obtained as a receipt.
- 14.3 The Executive 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. Detailed procedures are contained in, "The Management of Patient's Property Guidance". Separate accounts for patients' monies shall be opened and operated under arrangements agreed by the Executive Director of Finance.
- 14.4 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. This will need to be ratified by the Trust's Legal Services Department. Where the total value of property is £5,000 or less, forms of indemnity shall be obtained.
- 14.5 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.
- 14.6 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 in writing.

## 15 STANDARDS OF BUSINESS CONDUCT

### *Key points*

*Staff must comply with national guidance, Trust policies (and particularly the Declarations and Pay Policies) and ABPI Code of Professional Conduct.*

### 15.1 POLICY

15.1.1 Staff must comply with the national guidance relating to the Nolan principles, Trust policies and Values (Compassionate, Inclusive, Committed) and the ABPI Code of Professional Conduct. Key expectations and responsibilities are stated below but staff should refer to these for full detail on what is required.

### 15.2 PRINCIPLES OF CONDUCT IN THE NHS

15.2.1 The Nolan Committee set out Seven Principles of Public Life, which should apply to all in the public service. These are:

- a) **Selflessness** - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends
- b) **Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties
- c) **Objectivity** - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit
- d) **Accountability** - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office
- e) **Openness** - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands
- f) **Honesty** - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest
- g) **Leadership** - Holders of public office should promote and support these principles by leadership and example.

### 15.3 THE BRIBERY ACT 2010

15.3.1 Under the Bribery Act 2010, the Trust's Policy and the terms and conditions of an employee's contract, it is an offence for staff to accept any inducement or reward for:

- a) doing, or refraining from doing anything in their official capacity
- b) showing favour or disfavour to any person in their official capacity.

## **15.4 CONFIDENTIALITY**

- 15.4.1 Employees must comply with Trust policies relating to confidentiality.
- 15.4.2 Employees in the course of their duties may gain access to business information in relation to the running of the Trust. Employees may also gain access to information that relates to staff, patients and / or other clients. Such information is regarded by the Trust as CONFIDENTIAL. Therefore, all members of staff must not disclose such information either in the course of their duties whilst in employment or at any time after the termination of their contract, to any person who does not have the right to this information.
- 15.4.3 Employees are also not permitted to release in any form the whole or part of any document belonging to the Trust, except where express consent by a Director has been given, in relation to the proper performance of an employee's duties.

## **15.5 CASUAL GIFTS**

- 15.5.1 Casual gifts offered by contractors or others may not be in any way connected with an employee's performance of duties so as to constitute an offence under the terms and conditions of their employment contract.
- 15.5.2 Employees should:-
  - a) refuse all gifts, benefits, hospitality, or sponsorship of any kind which might reasonably be seen to compromise their personal or professional judgement or integrity, and to avoid seeking to exert influence to obtain preferential consideration. All such gifts should be returned and hospitality refused;
  - b) declare and register gifts or benefits valued in excess of £50, received from patients/service users or their relatives (either individually or if several small gifts have been received from the same or closely related source, and they total £50 over a 12-month period). These should only be accepted if they are for the benefit of the Trust or specific wards. Low cost branded promotional goods such as post it notes, diaries or pens can be accepted and need not be declared if under the value of £6. If over this value, then they would need to be declared;
  - c) consult their line managers or the Company Secretary/Deputy Company Secretary if in doubt. *Note: when the Declarations Policy is due for renewal it goes to the Policy Development Management Group (PDMG).*

## **15.6 HOSPITALITY**

- 15.6.1 Reasonable hospitality (e.g., lunches to refreshments, meals, travel and accommodation), valued at between £25 and £75 may be accepted but must be declared to the Company Secretary. All offers of foreign travel or accommodation should only be accepted in exceptional circumstances and require senior approval and should be declared with an explanation as to why acceptance is acceptable to the Company Secretary. Any hospitality from pharmaceutical companies must comply with the Association of British Pharmaceutical Industries (ABPI) guidelines and the Trust's Commercial Sponsorship, Gifts and Hospitality and Conflict of Interest Policy and Procedure.

- 15.6.2 Trust staff should decline all other offers of gifts, hospitality, or entertainment. Staff should consult their line manager if in doubt. Further Guidance is available in the Trust's Sponsorship, Gifts and Hospitality Policy. If any hospitality should be accepted, then it must be reported to the Trust Company Secretary at the earliest opportunity.

## **15.7 INTEREST OF OFFICERS IN CONTRACTS**

- 15.7.1 If it comes to the knowledge of a director or an officer of the Trust that a contract in which he has any pecuniary interest whilst not being a contract to which he or a close family member is a party, has been, or is proposed to be, entered into by the Trust he shall, at once, give notice in writing to the Trust Company Secretary of the fact that he is interested therein.

## **15.8 PRIVATE TRANSACTIONS**

- 15.8.1 Trust staff must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had or may have official dealings on behalf of the Trust.
- 15.8.2 An officer must also declare to the Company Secretary any other employment or business or other relationship of theirs, persons living together as partners, or other immediate family members, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.
- 15.8.3 All members of staff are required, upon appointment, to adhere to the NHS Code of Conduct and Code of Accountability.

## **15.9 CANVASSING OF AND RECOMMENDATIONS BY DIRECTORS IN RELATION TO APPOINTMENTS**

- 15.9.1 Canvassing of directors of the Trust or members of any committee of the Trust directly or indirectly for any appointment under the Trust shall disqualify the candidate from such an appointment. The contents of this paragraph of the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.
- 15.9.2 A director of the Trust shall not solicit for any person any appointment under the Trust or recommend any person for such appointment: but this paragraph of this Standing Financial Instructions shall not preclude a director from giving written testimonial of a candidate's ability, experience, or character for submission to the Trust.
- 15.9.3 Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.

## **15.10 RELATIVES OF DIRECTORS OR OFFICERS**

- 15.10.1 Candidates for any staff appointment shall when making application disclose in writing whether they are related to any director or the holder of any office under the Trust. Failure to disclose such a relationship may disqualify a candidate and, if appointed, render him/her liable to instant dismissal on the grounds of gross misconduct.
- 15.10.2 The Directors and every officer of the Trust with recruitment responsibility shall disclose to the Deputy Director of Human Resources any relationship with a candidate

of whose candidature that Director or Officer is aware. It shall be the duty of the Deputy Director of Human Resources to report to the Board any such disclosure made that they consider being a material nature.

15.10.3 On appointment, directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Trust whether they are related to any other director or holder of any office under the Trust.

15.10.4 Where the relationship of an Officer or another Director to a Director of the Trust is disclosed, the Standing Order headed 'Disability of Directors in proceedings on account of pecuniary interest' (SO 7) shall apply.

15.10.5 Staff must ensure that no special favour is shown to current or former employees or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in a senior or relevant management capacity. Contracts may be awarded to such businesses, but scrupulous care must be taken to ensure that the tendering and selection processes are conducted impartially, and that staff who are known to have a relevant interest take no part in the selection process and requirements of the declaration process in respect of procurement and contracts is followed. If there is any doubt the advice of the Company Secretary should be sought.

## **15.11 EMPLOYMENT**

15.11.1 Staff shall not engage in outside employment which may conflict with the Trust's business or be detrimental to it or its reputation.

15.11.2 Staff are also reminded of their responsibility to ensure that work undertaken in addition to their substantive contractual duties with the Trust is not detrimental to their employment and does not impair their ability to perform their duties for the Trust. This must be declared, in accordance with the Working Time Directive.

## **15.12 PRINCIPLES OF PRIVATE WORK**

15.12.1 For medical staff:-

- a) Consultants and Associate Specialists employed under the Terms and Conditions of Service for Hospital Medical and Dental staff are permitted to carry out private practice in NHS Hospitals subject to the conditions outline in the handbook, "A Guide to the Management of Private Practice in the NHS". Consultants who have signed new contracts with the Trust will be subject to the terms applying to private practice in those contracts.
- b) All medical staff are entitled to fees for other work outside the NHS contractual duties under "Category 2" (Paragraph 37 of the Terms and Conditions for Medical and Dental staff) e.g., examinations and reports for life insurance purposes.
- c) Doctors in training should not undertake locum work outside their contracts where such work would be in breach of their contracted hours.
  - i. All private work should be notified to the Company Secretary.

15.12.2 All other types of NHS staff employed by the Trust are encouraged to refrain from carrying out private work. Under exceptional circumstances employees may request

formal agreement from their line-manager to engage in private work. If an employee does engage in private work the following criteria must be complied with:

- a) They do not use their NHS titles or the Trust's name in advertising their private work.
- b) They do not use any NHS resource including Trust buildings or facilities, stationary, secretarial support, equipment or postage.
- c) It does not adversely affect their capacity to perform their NHS duties.
- d) Private work is only undertaken at times when staff are off duty or on annual leave or that declarations of category 2 or fee-paying work are made in line with the requirements of the Declarations Policy and the Pay Policy.
- e) They do not leave business cards or place posters in Trust premises.
- f) Appropriate adherence is paid to Working Time Regulations and issues of Health and Safety in relation to working hours.

15.12.3 If agreed, it is an Audit Committee requirement that the line manager must formally notify the arrangement to the Trust Company Secretary as a Declaration of Interest.

15.12.4 Furthermore, it should be noted that any remuneration received from external organisations or individuals through lecturing, teaching activities or for services provided during Trust time, is income that belongs to the NHS and should therefore be paid into the relevant directorate budget.

### **15.13 REWARDS FOR INITIATIVE**

15.13.1 The Trust will ensure that it is in position to identify potential intellectual property rights (IPR), so that it may ensure that its staff receive any rewards or benefits e.g., royalties in respect of any work carried out by Trust employees. Appropriate specifications and provisions will be incorporated into contractual agreements. Patents or IPR should be declared in line with the declarations policy. Permission should be sought in advance to enter into any agreements with other bodies regarding product development, research work, development of pathways etc where this impacts on the organisations own time, uses its equipment resources or intellectual property.

15.13.2 Rewards may be given voluntarily to Trust staff who within the course of their duties have produced innovative work of outstanding benefit to the NHS. Similar rewards may also be applied to other activities such as publishing articles and giving lectures.

15.13.3 In the case of collaborative research work with commercial suppliers or other organisations, the Trust will ensure that it obtains a fair reward for the input provided. The Trust will also ensure that involvement with a particular manufacturer does not influence the purchase of other supplies or services from that organisation.

### **15.14 COMMERCIAL SPONSORSHIP**

15.14.1 Acceptance by Trust staff of commercial sponsorship for attendance at relevant conferences/course is only acceptable on provision of the staff seeking permission in advance and the manager is satisfied that acceptance will not compromise any purchasing decisions. Permission should be sought in advance from the Company Secretary if intending to seek sponsorship from 'discretionary advisors' and where there is any doubt advice should be sought from the Company Secretary.

15.14.2 Pharmaceutical companies may offer to sponsor a post for the Trust. The sponsorship must not affect the purchasing decisions made by the Trust and this will be monitored. Pharmaceutical companies may request collaboration in drug trials on their product. These will in all cases, be regulated by the local ethical committee. Any financial arrangements must comply with the Association of British Pharmaceutical Industries (ABPI) regulations and the Declarations Policy and must be declared and approved in advance by the Executive Director of Finance.

15.14.3 Under no circumstances will the Trust agree to “linked deals”, whereby sponsorship is linked to the purchase of particular products or services.

15.14.4 In circumstances where a firm offers free equipment, the free loan of equipment, or to provide equipment at what is, prima facie, less than cost:-

- a) the individual who has been approached must seek authority from their manager and notify in advance from Executive Director of Finance, in order to ensure that this offer can in no way be construed as an inducement for future purchase
- b) great caution must be exercised. In such cases, managers will be expected to ensure that the transaction will bear external scrutiny.

#### **15.15 COMMERCIAL IN CONFIDENCE**

15.15.1 Trust staff must avoid using or making public, internal information of “commercial significance”, particularly if its disclosure would prejudice the principle of a fair purchasing system.

15.15.2 This information does not relate to service delivery and activity levels, which should be publicly available as outlined in the NHS guidelines on openness.

#### **15.16 PROFESSIONAL CODES OF CONDUCT**

15.16.1 Professional Staff are reminded that they are also bound by their own codes of conduct within their profession. Professional staff are expected to be aware of their code of conduct.

#### **15.17 WHISTLE BLOWING (RAISING CONCERNS)**

15.17.1 Managers should create a climate for staff to report any inappropriate behaviour in the workplace. Trust staff must feel that their legitimate views will be welcomed and, where appropriate, acted on positively. The Trust will seek to offer practical support to staff. Refer to the Trust’s ‘Whistleblowers Policy’ for further guidance.

- a) All Trust staff have a clear duty to inform their managers of any instances of malpractice towards service users
- b) The Trust expects openness to be fostered so that staff should be encouraged freely to contribute their views on all aspects of Trust activities, especially the delivery of care to service users
- c) All Trust staff have a clear duty to inform their managers of financial irregularities
- d) All Trust staff have a clear duty to inform their managers of any instances of unprofessional conduct.

## **15.18 DECLARATION OF INTERESTS**

15.18.1 The Trust shall maintain a hospitality register, detailing both hospitality accepted and that which has been offered but declined. The register will be held by the Trust Company Secretary.

15.18.2 The Trust shall maintain a declaration of interests' register which will be held by the Company Secretary. Staff with delegated authority to commit the Trust to contractual agreements and/or to incur expenditure are expected to submit an annual return to the Company Secretary - a nil return is also required, when applicable. Staff should refer to the Declarations and Pay Policies for detail on what is required.

## **15.19 SUSTAINABILITY AND CLIMATE CHANGE**

15.19.1 The Trust (supported by Summerhill Services Limited (SSL) its subsidiary shall ensure that on an annual basis (within the Annual Report and Accounts) it declares its performance it is already delivering against the sustainability agenda/green plan.

15.19.2 The monitoring and reporting of this will be held by the SSL Estates Team.

**PART 2**  
**(BSMHFT as a Provider)**

# **1 CONTRACTING FOR COMMITMENT OF EXPENDITURE**

## *Key Points*

*All procurement activity shall ultimately be governed by the UK Public Contracts Regulations 2015 (the “Regulations”). All Employees who are involved in the exercise of purchasing or procuring activities must follow the procedures set out by the Executive Director of Finance.*

*An employee who is involved in any such activities must declare any conflict of interest for it to be recorded and appropriate actions to be undertaken to mitigate the associated risk, as set out in the Declarations Policy.*

## **1.1 LEGISLATION AND GUIDANCE GOVERNING PUBLIC PROCUREMENT**

1.1.1 All public procurement activity is legislated by the UK Public Contracts Regulations 2015 (the “Regulations”) (as Amended in 2022) and prescribes procedures for awarding all forms of contracts.

- a) These Regulations shall have effect as if incorporated in these Standing Orders and Standing Financial Instructions
- b) Only the Chief Executive Officer, or delegated authority, may authorise the wavering of any activity that does not comply with this legislation.

1.1.2 The Trust shall comply as far as is practicable with the requirements published by the Department of Health (DoH), Cabinet Office (CO), NHSi through regional manager, the management function of NHS Supply Chain known as Supply Chain Co-ordination Limited (SCCL) or successor organisation and other central government functions that publish policy notes on best practice and mandatory requirements of how to undertake public procurement exercises.

## **1.2 CONDUCT**

1.2.1 All staff involved in the act of committing the Trust to expenditure have a duty to comply with Standing Orders and SFIs.

- a) They must ensure the procedure for making all contracts by or on behalf of the Trust shall comply with these Standing Financial Instructions.
- b) All exercises must seek and demonstrate Value for Money (VFM) by obtaining the maximum benefit with the resources available. Demonstrating the right balance between quality and cost; as well as achieving the right balance between economy, efficiency, and effectiveness.
- c) All undertakings must adhere to the UK Procurement Principles that set out to ensure a ‘level playing field’ for suppliers in which to conduct business.
  - i. These principles legally apply to procurement activity above the UK Public Contracts Regulations 2015 (the Regulations) thresholds.
  - ii. However, staff will need to apply the principle of “proportionately” to all procurement activity regardless of spend.

1.2.2 All staff must follow the Standards of Business, Section 22, and ensure they conduct themselves accordingly at all times when involved in making decisions around commitment of public monies.

- 1.2.3 All personnel involved in tendering and contacting activities must be aware of the Bribery Act 2010 and must ensure that all dealings with other organisations and their staff do not bring them in breach of the Act that could leave them open to criminal proceedings being commenced. Any suspicions of bribery offences should be reported to the Local Counter Fraud Specialist.
- 1.2.4 The advantage referred to in the Bribery Act 2010 does not just relate to financial gain, it can also relate to other incentives including but not limited to holidays, lavish gifts, and tickets to events. There are four main offences under the Bribery Act 2010:
- a) Offering a bribe;
  - b) Accepting a bribe;
  - c) Bribing a foreign public official; and
  - d) Failing to prevent bribery (also known as the corporate offence).
- 1.2.5 An employee who is involved in any activities for the commitment of spend must declare any conflict of interest directly to the Company Secretary and Head of Procurement for it to be recorded and appropriate actions to be undertaken to mitigate the associated risk.

### **1.3 ESTIMATING THE CONTRACT VALUE**

- 1.3.1 The contract value is to be estimated net of VAT, and should reflect the total amount payable by the Trust.
- 1.3.2 Contract value is treated as cumulative; a rolling twelve-month contract with no explicit end date is defined within the Regulations as a Contract value of 4 years.

### **1.4 SPEND THRESHOLDS AND ACTIVITY REQUIRED**

- 1.4.1 All activity is governed by the Standing Financial Instructions and the processes required to evaluate Value For Money (VFM) are dependent on the commitment of funds, as defined in 1.3.2.
- a) £0-£4,999 – Spot purchase – see 1.5
  - b) £5,000 – £99,999– Quotations – see 1.6
    - i. Below £50,000 three (3) quotations are required
    - ii. Above £50,000 four (4) quotations are required
  - c) £100,000+ - Tendering – see 1.7.
    - i. Tendering may be undertaken below £100,000 where the requirement for a full evaluation and contract is required to deliver a strategically important requirement
    - ii. “Mini-competition” is a Tendering activity, under an existing framework and shall follow the same principles within these instructions as Tendering
  - d) Award against framework
    - i. Award against a compliant framework in line with the framework’s terms and conditions for value.
    - ii. An authorised waiver for framework award is required.

## **1.5 SPOT PURCHASE**

- 1.5.1 Where the requirement is valued at £0 - £4,999 an authorised officer, in accordance with the Scheme of Delegation, may commit spend via the Purchase to Pay (P2P) system.
- 1.5.2 Any such commitment shall have a brief rationale for how it demonstrates value for money held by the authoriser of the individual spend.

## **1.6 QUOTATIONS**

### **1.6.1 General Position on quotations**

- a) Quotations are required where formal tendering procedures are not adopted
- b) All Quotation activity shall be recorded on the relevant Waiver form for spend of £5,000 to £100,000 or locally if £0 - £4,999;
  - i. Where Competitive Quotations are undertaken, the budget holder is required to set out what process was undertaken, any exceptions and a value for money statement. A single tender waiver must be completed for evidence of value for money.
  - ii. Where Non-Competitive Quotations are sought, the budget holder is required to set out the reason why a competitive process is not being followed and how the proposed supplier can deliver value for money in a single tender waiver.
  - iii. These forms must be approved by the Head of Procurement and Executive Director of Finance / Chief Executive depending on the value.

### **1.6.2 Competitive Quotations**

- a) Quotations should be obtained based on specifications or terms of reference prepared by, or on behalf of, the Trust.
- b) Quotations should be in writing unless the Chief Executive or their 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.
- c) All quotations should be treated as confidential and should be retained for inspection.
- d) The Chief Executive or their 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 Trust, or the highest if payment is to be received by the Trust, then the choice made and the reasons why should be recorded in a permanent record.
- e) Terms and conditions must be evaluated as part of any quotation award decision.

### **1.6.3 Non-Competitive Quotations**

- a) 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 as a matter of urgency and are not obtainable under existing contracts;
- iii. Where the goods or services are for building and engineering maintenance where the responsible works manager can confirm there is a proprietary system/solution in place or specialist experience of the Trust is of commercial benefit to maintain an existing supplier.

#### **1.6.4 Quotations that fall outside Financial Limits**

- a) As the markets and required specification will dictate the quoted price, appropriate approval must be sought for additional funding to be made available before a quotation can be accepted that falls outside the financial limits allocated for this good, service or building works.

### **1.7 TENDERING**

- 1.7.1 The available procurement procedures available to be undertaken shall be shaped by the category of activity being tendered. The Common Procurement Vocabulary (CPV) codes are directly linked to the allocation of thresholds:

- a) Light Touch Regime (LTR) Services
  - i. Defined as only the CPV codes listed within Schedule 3 of the Regulations
- b) Works
  - i. Defined as only the CPV codes listed within Schedule 2 of the Regulations
- c) Supplies and Services
  - i. Defined as all other CPV codes not listed as LTR or Works

#### **1.7.2 Exceptions and instances where formal tendering need not be applied.**

- a) Formal tendering procedures need not be applied where:
  - i. The estimated expenditure or income does not, or is reasonably not expected to, exceed £100,000.
  - ii. Where the supply is proposed under special arrangements negotiated by the DoH in which event the said special arrangements must be complied with;
  - iii. Regarding disposals as set out in clause 16;
- b) Formal tendering procedures may be waived by the Executive Director of Finance in the following circumstances:
  - i. Where explicitly defined within the Regulations that there is an exemption
  - ii. Where the requirement is covered by an existing contract, such that it would not lead to a material change;
  - iii. Complaint routes to market exist that provide access to the Trust, these may take the form of;
    - National Contracts, through the management function of NHS Supply Chain known as Supply Chain Co-ordination Limited (SCCL) or by successor organisation Central Government

Functions that tender on behalf of the wider public sector, i.e., Crown Commercial Services (CCS) or successor organisation

- Procurement Hubs that have undertaken compliant procurement activity to provide their members with “Frameworks”. Any such access must be assessed and all requirements of the framework owner must be met. This may take the form of a “Direct Award” or “Mini-Competition”
  - Contracts let by other public bodies that have made a provision for other public sector organisations to access. Any such access must be assessed and all requirements of the contract owner must be met
  - Where a consortium or collaborative arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members; of which the Trust is a member
- iv. Where the timescale genuinely precludes competitive tendering. Failure to plan the work is not a justification for waiving formal tendering;
  - v. Where specialist expertise is required and is available from only one source;
  - vi. 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;
  - vii. 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;
  - viii. For the provision of legal advice and services as defined in the Regulations as eligible for an exemption
    - The Executive Director of Finance will ensure that any fees paid are reasonable and within commonly accepted rates for the costing of legal advice and services
- c) 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.
  - d) Where it is agreed by the Chief Executive Officer or Executive Director of Finance that competitive tendering is not applicable and should be waived, a single tender waiver must be completed and the reasons should be documented and recorded by the completion and approval of a waiver form and reported to the Audit Committee.

### **1.7.3 Contracting/Tendering Procedure**

- a) All tendering activity shall be undertaken using Electronic Tender Documentation (ETD) and the Trust’s eSourcing system
- b) All Tendering activity above threshold shall follow the prescribed procedures and mandated timescales within the regulations

- i. Where below threshold, tendering procedures shall follow the principles of the prescribed procedures and ensure reasonable timescales are allocated.

#### **1.7.4 Participation**

- a) The Trust is required to publish all relevant notices. Where an opportunity is advertised, the Trust must publish all opportunities over £25,000 on Contracts Finder.
- b) The Trust operates an electronic tendering system. All invitations to participate must be requested and received using the eSourcing system.
- c) The mandatory questions relating to mandatory and discretionary grounds for exclusion shall be asked of all participants, irrelevant of value
- d) All Tenders shall as a minimum include the following documentation:
  - i. A full outline of the procedure methodology to be undertaken.
  - ii. Evaluation criteria and scoring methodology.
  - iii. The terms and conditions of contract.
  - iv. Response deadline and requirements.
- e) Approved supplier lists
  - i. As a public sector body the Trust may not hold its own “approved supplier list”, where “approved supplier” is defined as a list of suppliers eligible to bid for business opportunities.
  - ii. All opportunities must be advertised and competition sought in a proportional and compliant manner.
  - iii. Evaluation methodologies must be sufficient to ensure bidders can be evaluated to ensure, as a minimum, they are;
    - Of good standing,
    - Suitably experienced,
    - Capable of delivering the contract
    - Have capacity to carry out the contract.

#### **1.7.5 Opening of tenders**

- a) All tenders shall be accepted only via the eSourcing system, and shall be received within an “electronic seal”. Bids shall not be able to be opened until the submission deadline has passed and the “seal is broken”.
- b) Tenders shall be opened by the Head of Procurement, or delegated officer, and shall be recorded within the audit log of the eSourcing System.
- c) The officer opening the Tender must be independent of the tenders lead procurement officer.

#### **1.7.6 Admissibility**

- a) All tenders that meet all of the following shall be accepted
  - i. Received on time.
  - ii. Are Complete, i.e. all documents required have been submitted.
  - iii. Bidder meets all of the participation requirements.

#### **1.7.7 Late tenders**

- a) Tenders received after the due time and date, but prior to the opening of the other tenders, may be considered at the discretion of the Chief Executive or their nominated officer. For example:
  - i. Technical issues that prevented the bidder form meeting the submission deadline.
  - ii. That accepting the late tender is in the best interest of the competitiveness of the procurement exercise.
- b) Once the seal is “broken” through the electronic portal no further late tenders can be received by the Trust.

#### **1.7.8 Evaluation of formal tenders**

- a) Clarifications may be sought from bidders following receipt of tenders.
  - i. These must be carried out in an open fair, and equitable manner such that no perception of bias can be demonstrated.
  - ii. Any such clarification is for clarifying existing information and is not for the purposes of changing / re-submitting a response.
  - iii. Must be recorded within the eSourcing system.
  - iv. There must be absolutely no communication outside of the eSourcing system in relation to the relevant tender.
- b) The published evaluation methodology for the specific tender must be followed. Deviation from this methodology is not permitted.
- c) All evaluations must be recorded, and justifications for any scores allocated must be recorded within the eSourcing system.
- d) The final award decision must demonstrate that it will deliver the level of quality of goods or provision of service in line with the Trust specification and Value for Money achieved.

#### **1.7.9 Abnormally low tenders**

- a) The Trust has a requirement under Regulation 69 of the regulations to evaluate all tender values submitted and where a tender appears to be abnormally low in relation to the works, supplies or services, the Trust has to require an explanation of the price / costs in the proposed tender from the tenderer concerned.
  - i. Before rejecting an apparently abnormally low tender, the Trust must request in writing details of the constituent elements of the tender which are considered relevant for the appraisal or verification of its apparent anomaly, such as:
    - the economics of the manufacturing process, of the services provided or of the construction method;
    - technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the supply of the products or services or for the execution of the work;
    - the originality of the work, supplies or services proposed by the tenderer;
    - Compliance with the environmental, labour, and social obligations referred to in Regulation 56(2); or

- Compliance with the subcontracting obligations established in Regulation 71; and
  - The possibility of the tenderer obtaining State aid, Regulation 69(2)
- ii. In view of the evidence supplied by the tenderer upon consultation, the Trust shall verify those constituent elements and reach a final decision on whether to reject the apparently abnormally low tender or not.

#### **1.7.10 Award of Tenders**

- a) All contract awards following a tender process must include:
- i. All bidders informed of the outcome, via an “intent to award” notice. Any such communication must provide the relevant level of detail to de-brief the participants on the outcomes of the process
  - ii. A stand still period (10 days Alcatel Period) Good practice to adhere to.
  - iii. A notice to the successful supplier(s) following the end of the standstill period, to conclude the award process.
- b) Only following the completion of the standstill period may the Trust enter into a contract.
- c) Only in exceptional circumstances may a supplier begin delivery of goods/services to the Trust prior to the contract being finalised and signed.
- d) On completion of award, a Regulation 84(1) report must be completed. This report must be stored within the eSourcing system for audit purposes.
- i. A Regulation 84(1) report is not required for contracts called off under a framework agreement, if;
    - The framework agreement is with a single supplier and is awarded in accordance with Regulation 33(7), or
    - The framework agreement is with more than one supplier but the call-off contract is awarded without reopening competition in accordance with Regulation 33(8)(a)
  - ii. Note that in all other cases a Regulation 84(1) report will be required for a call-off contract.

#### **1.7.11 Tender reports to the Board**

- a) Reports to the appropriate Executive/Committee/Decision Making Group identified in the Scheme of Delegation will be made on all contract values exceeding £250,000.

### **1.8 ITEMS WHICH SUBSEQUENTLY BREACH THRESHOLDS AFTER ORIGINAL APPROVAL**

- 1.8.1 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 Executive Director of Finance.
- a) Where a procurement exercise has been undertaken using a process complaint below a threshold, and the result is above the threshold it shall be abandoned, as it cannot be awarded, and compliant process undertaken.
  - b) Where contracts are varied over their duration, any material change that sufficiently alters the nature of the contract from its original award shall be assessed under the regulations relating to material change. Where it is identified

that these variations are triggering a “material change”, then the variation shall not be authorised and a new procurement undertaken to award a complaint contract that incorporates this change.

## **1.9 PILOT EXERCISES**

1.9.1 Any Pilot that is undertaken, must ensure;

- a) That it is no longer than 18 months in duration
- b) There is a clear audit of how the supplier(s) were appointed
- c) The solution being trailed must not lock the Trust into any proprietary system / solution
- d) A clear evaluation methodology must be published as part of the award, to enable a measurable and recorded outcome
- e) On completion, if successful, the information must be used to generate a specification and the requirement tendered accordingly.

1.9.2 Pilot exercises must not be used as an excuse for avoiding tendering procedures.

## **1.10 TRANSPARENCY OF AWARDED CONTRACTS**

1.10.1 All contracts entered into on behalf of the Trust must be signed by a duly authorised individual, as per the scheme of delegation.

- a) All contracts awarded must fully comply with;
  - i. These Standing Financial Instructions
  - ii. All applicable legislation
  - iii. Have clear definitions and appropriate markings to highlight any elements that are “commercially confidential” in line with the latest FIOA and associated guidance
- b) The Head of Procurement shall be informed when a contract has been let and provided with;
  - i. A copy of the final signed contract
  - ii. A summary statement of the process undertaken to award the contract and how this was compliant with these SFI’s
- c) Once awarded, all contracts in excess of £25,000 inclusive of VAT must have the correct contract award notice(s) published:
  - i. ALL contracts must be published to the Trust publicly facing contracts register
  - ii. As per Regulation 112 for the Regulations, contracts awarded over £25,000 must also be published on the UK Government website: “Contracts Finder” (or successor).

## **1.11 PRIVATE FINANCE FOR CAPITAL PROCUREMENT**

- 1.11.1 The Trust may 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.
- 1.11.2 The Chief Executive shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector.
- 1.11.3 The Trust must comply with NHS England's "Roles and Responsibilities in the approval of NHS Foundation Trust PFI schemes" and consider the "Risk Evaluation for Investment decisions by NHS Foundation Trusts".
- 1.11.4 Where the sum exceeds the thresholds set out in the Single Oversight Framework, the proposal must be submitted to NHS England. NHS England does not have any role in approving such plans, but it will consider the impact on the Trust's financial risk rating.
- 1.11.5 The proposal must be specifically agreed by the Board.
- 1.11.6 The selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

## **1.12 COMPLIANCE REQUIREMENTS FOR ALL CONTRACTS**

- 1.12.1 The Board may only enter into contracts on behalf of the Trust within its statutory powers and shall comply with:
  - a) The Trust's Constitution, Terms of Authorisation, Standing Orders and Standing Financial Instructions;
  - b) other statutory provisions;
  - c) Any relevant guidance published by the Independent Regulator and the Department of Health and guidance on the Procurement and Management of Consultants;
  - d) Such of the NHS Standard or Model Contract Conditions as are applicable
  - e) 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
  - f) In all contracts made by the Trust, 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 Trust.

## **1.13 PERSONNEL AND AGENCY OR TEMPORARY STAFF CONTRACTS**

- 1.13.1 The Executive Director responsible for human resources shall nominate officers with delegated authority to enter into contracts of employment, regarding staff, agency staff or temporary staff service contracts. Nationally or regionally contracts negotiated on behalf of the NHS should be used wherever possible, as specific NHS terms and conditions will be included to minimise risk to the Trust.

## **1.14 IN-HOUSE SERVICES**

- 1.14.1 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 Trust may also

determine from time to time that in-house services should be market tested by competitive tendering.

1.14.2 In all cases where the Board determines that in-house services should be subject to competitive tendering:

- a) The specification must not be biased towards the in-house service
- b) A decision shall be made, and rationale recorded, as to where an external third party is required to mitigate any conflicts of interest such that:
  - i. The Trust can assure the market that the exercise being undertaken is fair, transparent and a “level playing field”
  - ii. The evaluation panel is independent of the in-house service
  - iii. How the in-house team and the decision making process shall be segregated and kept independent.

1.14.3 The outcome of the procurement shall be presented as a contract recommendation to the Board and an internal contract shall be awarded in the same manner as a normal tender conclusion.

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

1.14.4 Award to Wholly Owned Subsidiary shall follow Teckal guidelines and 8.14.4. most recent case law informing this guidance.

## **1.15 APPLICABILITY OF SFIs ON TENDERING AND CONTRACTING TO FUNDS HELD IN TRUST**

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

## 2 CONTRACTING FOR PROVISION OF SERVICES

### *Key Points*

*All contracting activity shall ultimately be governed by the UK Public Contracts Regulations 2015 (the Regulations). All Employees who are involved in the exercise of commissioning or bidding activities must follow the procedures set out below.*

*An employee who is involved in any such activities must declare any conflict of interest directly to the Executive Director of Finance for it to be recorded and appropriate actions to be undertaken to mitigate the associated risk.*

### 2.1 SERVICE CONTRACTS

- 2.1.1 The Chief Executive, as the Accounting Officer, is responsible for ensuring the Trust enters into suitable legally binding Service Contracts with NHS commissioners for the provision of both the mandatory services specified in the Terms of Authorisation and also other services. On behalf of the Chief Executive, the Executive Director of Finance will lead on the agreement of contracts with commissioners.
- 2.1.2 All service contracts should aim to implement the agreed priorities contained within the Annual Plan. In discharging this responsibility, the Executive Director of Finance should take into account:
  - a) the standards of service quality expected, including those published by the Secretary of State under Section 46 of the 2006 Act;
  - b) the relevant national service frameworks and guidelines published by the National Institute of Clinical Excellence;
  - c) national tariffs published by the Department of Health or other agreed local pricing mechanisms where national tariffs do not apply;
  - d) the need to provide ancillary and other supporting services essential to the delivery of the healthcare involved;
  - e) the provision of reliable information on cost, quality and volume of services;
  - f) previously agreed developments or investments plans;
  - g) payment terms and conditions; and
  - h) amendments to contracts and extra-contractual arrangements/SPA's.
- 2.1.3 Contracts should be so devised as to achieve activity and performance targets, minimise risks and maximise the Trust's opportunity to generate income.
- 2.1.4 The Executive Director of Finance shall produce regular reports detailing actual and forecast contract income where appropriate linked to activity with a detailed assessment of the impact of the variable elements of income.
- 2.1.5 Any pricing of contracts at marginal cost must be agreed by the Executive Director of Finance and reported to the Board.
- 2.1.6 Services provided to non-NHS organisations with a value greater than £250,000 over a 3 year period or the period of the contract if longer, must be performed under a legal contract and approved by the Finance, Performance & Productivity Committee and over £2m by the Board.

- 2.1.7 The risks and revenue streams associated with non-NHS activities should be appropriately insured with commercial (i.e. non-NHS RESOLUTION) underwriters.

### **3 NON-PAY EXPENDITURE**

#### *Key points*

*Employees, in choosing goods and services, shall always obtain the best value for money for the Trust.*

*Logs of purchase card activity must be submitted to the Finance department on a monthly basis.*

#### **3.1 DELEGATION OF AUTHORITY**

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

#### **3.2 CHOICE, REQUISITIONING, ORDERING, RECEIPT AND PAYMENT FOR GOODS AND SERVICES**

- 3.2.1 Any employee authorised to requisition goods or services shall comply with procedures issued by the Executive Director of Finance and, in choosing the item to be supplied (or the service to be performed), shall always obtain the best value for money for the Trust. In so doing, the advice of the Procurement Department shall be sought. In case of any area of doubt, the Executive Director of Finance shall make the final adjudication.
- 3.2.2 The Executive Director of Finance shall be responsible for the prompt payment of all properly authorised accounts and claims. Payment of contract invoices shall be in accordance with contract terms, or otherwise, in accordance with national guidance. Payment for goods and services shall only be made once the goods and services are received (except for prepayments as below).
- 3.2.3 The Executive Director of Finance will:
  - a) agree with 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 regularly reviewed;
  - b) prepare procedural instructions [where not already provided in the Scheme of Delegation or procedure notes for budget holders] 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. Certification that:
    - goods have been duly received, examined and are in accordance with specification and the prices are correct;
    - work done or services rendered have been satisfactorily carried out in accordance with the order, and, where applicable, the materials used are of the requisite standard and the charges are correct;
    - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for the use of vehicles, plant and machinery have been examined;
    - where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
    - the account is arithmetically correct;
    - the account is in order for payment
  - ii. 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 (except as paragraph 11.2.4).

3.2.4 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., cashflows must be discounted to NPV) and the intention is not to circumvent cash limits or other budgetary constraints;
- b) the appropriate budget owner must provide, in the form of a written report, a case setting out all relevant circumstances of the purchase. The report must set out the effects on the Trust if the supplier is at some time during the course of the prepayment agreement unable to meet its commitments;
- c) the Executive Director of Finance will need to be satisfied with the proposed arrangements before contractual arrangements proceed;
- d) the budget owner is responsible for ensuring that all items due under a prepayment contract are received and he must immediately inform the appropriate Director or Chief Executive if problems are encountered;
- e) Some items of expenditure may be paid for in advance, these are limited to: training places, travel and hotel accommodation.

3.2.5 Official Orders must:

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

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

- a) all contracts [other than for a simple purchase permitted within the Scheme of Delegation or delegated budget], leases, tenancy agreements and other commitments which may result in a liability are notified to the appropriate person set out in the Scheme of Delegation in advance of any commitment being made
- b) All orders are placed in advance of commitment to the supplier and goods or services being delivered
- c) contracts above specified thresholds (see Scheme of Delegation) are advertised and awarded in accordance with section 8;
- 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;
- e) no requisition/order is placed for any item or items for which there is no budget provision unless authorised by the Executive 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, incidental purchases from petty cash and items obtained through the legitimate use of a Trust Purchase Card;
- 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, delegated limits or rules on virement/budget journal;
- i) goods are not taken on trial or loan in circumstances that could commit the Trust to a future uncompetitive purchase;
- j) purchases from petty cash are restricted in value and by type of purchase in accordance with instructions issued by the Executive Director of Finance;
- k) petty cash records are maintained in a form as determined by the Executive Director of Finance;
- l) all requisitions, orders and petty cash disbursements are to be correctly coded and made available for checking by the Finance Department;
- m) certification of satisfactory delivery of the goods or services to the Finance Department is completed through the part-delivery advice (PDA) or "goods received note" process within 48 hours of receipt.

3.2.7 The Executive 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.

### **3.3 DELEGATED ORDERING, USE OF PURCHASING CARDS**

3.3.1 The Executive Director of Finance in conjunction with the Trust's Finance Department, shall ensure that there are robust arrangements for controlling expenditure by Nominated Managers through the use of "purchase cards" to include:

- a) a requirement for all holders of such cards to confirm in writing that they have understood the relevant terms and conditions provided to them by the issuing bank and their responsibility with regard to security and use of the card.
- b) controls including the use of purchasing activity logs (recording all purchases made with the card) which will then be submitted to the Finance Department on a monthly basis (or as requested) within prescribed timescales.
- c) written confirmation from the card holder that they will ensure that their card is only used to make "bona fide" Trust purchases.
- d) a requirement for any inadvertent personal use of such cards to be reimbursed to the Trust immediately and in full.

## 4 INFORMATION TECHNOLOGY

### *Key points*

*The role of Senior Information Risk Officer (SIRO) is undertaken by the Executive Director of Finance. All IT systems will have an Information Asset Owner (IAO).*

- 4.1 The Chief Executive shall ensure that risks to the Trust arising from the use of IT are effectively identified and considered and appropriate action taken to mitigate or control risk. This shall include the preparation and testing of appropriate disaster recovery and business continuity plans.
- 4.2 The Executive Director of Finance is responsible for the accuracy and security of the computerised financial data of the Trust. This includes fulfilling the role of SIRO, which comprises the following duties:-
  - 4.2.1 Understand how the strategic business goals of the Trust may be impacted by information risks.
  - 4.2.2 Act as an advocate for information risk on the Board and in internal discussions.
  - 4.2.3 Take ownership of risk assessment processes for information risk.
  - 4.2.4 Review and agree actions in respect of identified information risk.
  - 4.2.5 Ensure the Trust's approach to information risk is effective in terms of resource, commitment and execution and that this is communicated to all staff.
  - 4.2.6 Provide a focal point for the resolution/ discussion of information risk issues where necessary.
  - 4.2.7 Ensure the Board is adequately briefed on information risk issues.
- 4.3 The Executive Director of Finance will identify Information Asset owners for all IT systems. IAO's have responsibility to:
  - 4.3.1 Understand and address risks to the information asset/ system they 'own'.
  - 4.3.2 Provide assurance to the Senior Information Risk Officer (SIRO) on the security and use of the assets.
  - 4.3.3 Ensure completion of relevant documentation prior to the implementation of a new system.
  - 4.3.4 Lead and foster a culture that values, protects and uses information for the public good.
  - 4.3.5 Perform annual Data Protection Health check on systems/ asset and Confidentiality Audits.
  - 4.3.6 Knows what information the asset holds, and what enters and leaves it and why knows who has access and why and ensures their use of it is monitored.
  - 4.3.7 Devise and implement any necessary procedures to ensure adequate (reasonable) protection of the Trust's data, programs, and computer hardware for which he is responsible from accidental or intentional disclosure to unauthorised persons,

deletion or modification, theft, or damage, having due regard for the Data Protection Act, Human Rights Act and the Freedom of Information Act.

- 4.3.8 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.
- 4.3.9 Ensure that adequate controls exist such that the computer operation is separated from development, maintenance, and amendment.
- 4.3.10 Ensure that an adequate management (audit) trail exists through the computerised system and that such computer audit reviews as he may consider necessary are being carried out.
- 4.4 The Executive Director of Finance shall satisfy themselves 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 will be obtained from them prior to implementation.
- 4.5 The Executive Director of Finance shall ensure that contracts for computer services for applications with any organisation or 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.
- 4.6 Where another health organisation or any other agency provides a computer service for applications, the Executive Director of Finance shall periodically seek assurances that adequate controls are in operation.

## 5 CHARITABLE FUNDS

### *Key points*

*Charitable funds are gifts or donations received by the Trust Charity. 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 Charitable Funds.*

### 5.1 INTRODUCTION

- 5.1.1 **“Charitable funds”** are those gifts, donations and endowments held on trust for purposes relating to the NHS mental health services in Birmingham & Solihull Mental Health NHS Foundation Trust.
- 5.1.2 Birmingham & Solihull Mental Health NHS Foundation Trust Charity (Caring Minds) is a registered charity with the Charity Commission. The trustees of the charity are the Board of Birmingham & Solihull Mental Health NHS Foundation Trust. The Board has delegated the decision making process to a sub-committee which meets periodically and reports to the Board. The trustees are responsible for the management of the charitable funds and define how these responsibilities are to be discharged. The trustees have accountability to the Charity Commission. Charitable funds are totally separate to exchequer funds; they are administered separately and have their own set of accounts.
- 5.1.3 The discharge of the Trust's corporate trustee responsibilities are distinct from its responsibilities for exchequer funds and may not necessarily be discharged in the same manner, but there must still be adherence to the overriding general principles of financial regularity, prudence and propriety. Trustee responsibilities cover both charitable and non-charitable purposes. The Executive Director of Finance shall ensure that each fund is managed appropriately with regard to its purpose and to its requirements.
- 5.1.4 In so far as it is possible to do so, these Standing Financial Instructions will apply to the management of Charitable Funds.

### 5.2 ADMINISTRATION OF FUNDS

- 5.2.1 The Executive Director of Finance shall arrange for the administration of all charitable funds in conjunction with the Legal Services department. They shall ensure that every charitable fund has a governing instrument and shall produce detailed procedures on the financial management of charitable funds, for the guidance of directors and employees. Such guidelines shall identify:
  - a) the restricted nature of certain funds
  - b) the circumstances under which new funds may be established
  - c) how to proceed when offered funds
  - d) recommendations on the wording of wills
  - e) procedures for fund-raising, including trading activities.
- 5.2.2 The Executive Director of Finance shall periodically review the funds in existence and shall make recommendations to the Board regarding the potential for rationalisation of such funds within statutory guidelines. The Executive Director of Finance may

recommend an increase in the number of funds where this is consistent with the Trust's policy for ensuring the safe and appropriate management of restricted funds, e.g., designation for specific wards or departments.

5.2.3 In respect of legacies and bequests, the Executive Director of Finance shall:

- a) where necessary, obtain grant of probate or apply for grant of letters of administration
- b) be empowered, on behalf of the Trust, to negotiate arrangements regarding the administration of a will with executors and to discharge them from their duty; and
- c) be directly responsible, in conjunction with the Legal Services Solicitor, for the appropriate treatment of all legacies and bequests.

5.2.4 The Executive Director of Finance shall be responsible, along with the Company Secretary, for alerting the Board to any irregularities regarding the use of the Trust's name or its registration numbers in fund-raising.

5.2.5 The Executive Director of Finance shall be responsible, with the Company Secretary, for the appropriate treatment of all income, including fund-raising, trading activities, dividends and interest.

5.2.6 The exercise of the Trust's dispositive discretion (how it uses the funds) shall be managed by the Charitable Funds Committee in conjunction with the Board.

5.2.7 The Executive Director of Finance shall identify all costs directly incurred in the administration of charitable funds for charging to the appropriate charitable fund accounts.

5.2.8 The Executive Director of Finance shall ensure that liability to taxation and excise duty is managed appropriately.

### **5.3 INVESTMENT MANAGEMENT**

5.3.1 The Board shall be responsible for all aspects of the management of the investment of charitable funds. The issues on which the Executive Director of Finance shall be required to provide advice to the Board in conjunction with the Company Secretary shall include:

- a) the formulation of investment policy within the powers of the Trust
- b) the terms of appointment and choice of advisers (which shall be subject to written agreements signed by the Chief Executive)
- c) any pooling of investment resources
- d) conditions for the participation by the Trust in common investment funds
- e) the authorised use of charitable fund assets and policy guidelines for raising charges
- f) the review of the performance of brokers and fund managers
- g) the reporting of investment performance.

### **5.4 BANKING SERVICES**

5.4.1 The Executive Director of Finance shall ensure that appropriate banking services are available to the Trust as corporate trustee. These shall permit the separation of liquid funds to each charity if required by the Charity Commission.

## **5.5 ACCOUNTS, AUDITS AND REPORTS**

- 5.5.1 The Charitable Funds Committee shall ensure that regular reports are made to the Board with regard to, the receipt of funds, investments, and the disposition of resources.
- 5.5.2 The Executive Director of Finance shall prepare annual accounts in the required manner which shall be submitted to the Board within agreed timescales and, in conjunction with the Legal Services Solicitor, shall prepare an annual trustees' report (separate reports for charitable and non-charitable trusts) and the required returns to the Charity Commission for adoption by the Board.
- 5.5.3 The Executive Director of Finance shall maintain all financial records to enable the production of reports as above. The Executive Director of Finance shall ensure that the records, accounts, and returns receive adequate scrutiny.

## **6 RETENTION OF RECORDS**

- 6.1 The Chief Executive shall be responsible for maintaining archives for all records required to be retained under the direction contained in "Records Management Code of Practice 2021", and to enable requests under the Freedom of Information Act (2000), to be met.
- 6.2 The records held in archives shall be capable of retrieval by authorised persons.
- 6.3 Records held under the "Records Management Code of Practice 2021" shall be managed, including destruction in accordance with the Trust Policies, which will comply with Data Protection and National Information Governance requirements.

## **7 RISK MANAGEMENT AND INSURANCE**

7.1 The Chief Executive shall ensure that the Trust has a programme of risk management which will be approved and monitored by the Clinical Governance Committee.

### **7.2 The programme of Risk Management shall include:**

- 7.2.1 a process for identifying and quantifying risks and potential liabilities;
- 7.2.2 engendering among all levels of staff an understanding and a positive attitude towards the control of risk;
- 7.2.3 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;
- 7.2.4 mitigation plans to offset the impact of adverse events;
- 21.2.5 the Provider Board Assurance Framework.

### **7.3 INSURANCE: RISK POOLING SCHEMES ADMINISTERED BY NHS RESOLUTION**

7.3.1 The Board shall decide if the Trust will insure through the risk pooling schemes administered by the NHS Resolution 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.

### **7.4 INSURANCE ARRANGEMENTS WITH COMMERCIAL INSURERS**

7.4.1 The Executive Director of Finance shall ensure that appropriate and adequate commercial insurance arrangements are in place.

## 8 BUSINESS DEVELOPMENT

*This section relates to all business development activity for new business, retention of existing business, or expansion of existing business. This includes formal tenders, applications for funding, external business cases for funding, and grant applications.*

- 8.1.1 All business development activity must be fully assessed for the strategic fit and the delivery, financial and clinical risk associated with the opportunity by completion of a Business Development Assessment Proforma by the Business Development team.
- 8.1.2 Approval must be sought prior to submission as follows:
  - a) business developments over £150,000 by the Executive Team
  - b) business developments under £150,000 by the Director of Finance or Director of Strategy, People, and Partnerships.
- 8.1.3 The financial model must be agreed with the Director of Finance prior to submission.
- 8.1.4 The delivery/clinical model must be agreed with the Director of Operations (or relevant Executive Director) prior to submission.
- 8.1.5 The overall submission must be agreed with the Director of Strategy, People and Partnerships prior to submission.
- 8.1.6 Partner evaluation and due diligence must be carried out before entering into any partnership arrangements associated with the business development, and this must be approved by the Executive Team before any agreement is entered into.
- 8.1.7 Where a business development may meet the definition of a 'significant transaction', the Trust's Significant Transactions Policy (March 2020) must be followed.

**PART 3**  
**(BSMHFT as a Commissioner)**

# 1 CONTRACTING FOR COMMITMENT OF EXPENDITURE

## *Key Points*

*All procurement activity shall ultimately be governed by the UK Public Contracts Regulations 2015 (the “Regulations”).*

*All Employees who are involved in the exercise of purchasing activities must follow the procedures set out by the Executive Director of Finance.*

*All Employees who are involved in the exercise of procuring activities must follow the procedures set out by the Executive Director of Strategy, People, and Partnerships.*

*An Employee who is involved in any such activities must declare any conflict of interest for it to be recorded and appropriate actions to be undertaken to mitigate the associated risk, as set out in the Declarations Policy.*

## 1.1 LEGISLATION AND GUIDANCE GOVERNING PUBLIC PROCUREMENT

1.1.1 All public procurement activity is legislated by the UK Public Contracts Regulations 2015 (the “Regulations”) (as Amended) and prescribes procedures for awarding all forms of contracts.

- a) These Regulations shall have effect as if incorporated in the Standing Orders and Standing Financial Instructions
- b) Only the Chief Executive Officer, or delegated authority, may authorise the waiving of any activity that does not comply with this legislation.

1.1.2 The Trust shall comply as far as is practicable with the requirements published by the Department of Health (DoH), Cabinet Office (CO), NHSi through regional manager, the management function of NHS Supply Chain known as Supply Chain Co-ordination Limited (SCCL) or successor organisation and other central government functions that publish policy notes on best practice and mandatory requirements of how to undertake public procurement exercises.

## 1.2 CONDUCT

1.2.1 All staff involved in the act of committing the Trust to expenditure have a duty to comply with Standing Orders and SFIs.

- a) They must ensure the procedure for making all contracts by or on behalf of the Trust shall comply with these Standing Financial Instructions
- b) All exercises must seek and demonstrate Value for Money (VFM) by obtaining the maximum benefit with the resources available. Demonstrating the right balance between quality and cost; as well as achieving the right balance between economy, efficiency, and effectiveness
- c) All undertakings must adhere to the UK Procurement Principles that set out to ensure a ‘level playing field’ for suppliers in which to conduct business
  - iii. These principles legally apply to procurement activity above the UK Public Contracts Regulations 2015 (the Regulations) thresholds
  - iv. However, staff will need to apply the principle of “proportionately” to all procurement activity regardless of spend.

- 1.2.2 All staff must follow the Standards of Business, Section 22, and ensure they conduct themselves accordingly at all times when involved in making decisions around commitment of public monies.
- 1.2.3 All personnel involved in tendering and contacting activities must be aware of the Bribery Act 2010 and must ensure that all dealings with other organisations and their staff do not bring them in breach of the Act that could leave them open to criminal proceedings being commenced. Any suspicions of bribery offences should be reported to the Local Counter Fraud Specialist.
- 1.2.4 The advantage referred to in the Bribery Act 2010 does not just relate to financial gain, it can also relate to other incentives including but not limited to holidays, lavish gifts, and tickets to events. There are four main offences under the Bribery Act 2010:
  - a) Offering a bribe;
  - b) Accepting a bribe;
  - c) Bribing a foreign public official; and
  - d) Failing to prevent bribery (also known as the corporate offence).
- 1.2.5 An employee who is involved in any activates for the commitment of spend must declare any conflict of interest directly to the Company Secretary and Head of Procurement for it to be recorded and appropriate actions to be undertaken to mitigate the associated risk.

### **1.3 ESTIMATING THE CONTRACT VALUE**

- 1.3.1 The contract value is to be estimated net of VAT, and should reflect the total amount payable by the Trust.
- 1.3.2 Contract value is treated as cumulative; a rolling twelve month contract with no explicit end date is defined with in the Regulations as a Contract value of 4 years.

### **1.4 SPEND THRESHOLDS AND ACTIVITY REQUIRED**

- 1.4.1 All activity is governed by the Standing Financial Instructions and the processes required to evaluate Value For Money (VFM) are dependent on the commitment of funds, as defined in 1.3.2.
  - a) £0-£4,999 – Spot purchase – see 1.5
  - b) £5,000 – £99,999– Quotations – See 1.6
    - i. Below £50,000 three (3) quotations are required
    - ii. Above £50,000 four (4) quotations are required
  - c) £100,000+ - Tendering – See 1.7.
    - i. Tendering may be undertaken below £100,000 where the requirement for a full evaluation and contract is required to deliver a strategically important requirement
    - ii. “**Mini-competition**” is a Tendering activity, under an existing framework and shall follow the same principles within these instructions as Tendering
  - d) Award against framework
    - i. Award against a compliant framework in line with the framework’s terms and conditions for value.

- ii. An authorised waiver for framework award is required.

## **1.5 SPOT PURCHASE**

- 1.5.1 Where the requirement is valued at £0 - £4,999, an authorised officer, in accordance with the Scheme of Delegation, may commit spend via the Purchase to Pay (P2P) system.
- 1.5.2 Any such commitment shall have a brief rationale for how it demonstrates value for money held by the authoriser of the individual spend.

## **1.6 QUOTATIONS**

### **1.6.1 General Position on quotations**

- a) Quotations are required where formal tendering procedures are not adopted
- b) All Quotation activity shall be recorded on the relevant Waiver form for spend of £5,000 to £100,000 or locally if £0 - £4,999;
  - i. Where Competitive Quotations are undertaken, the budget holder is required to set out what process was undertaken, any exceptions and a value for money statement. A single tender waiver must be completed for evidence of value for money.
  - ii. Where Non-Competitive Quotations are sought, the budget holder is required to set out the reason why a competitive process is not being followed and how the proposed supplier can deliver value for money in a single tender waiver.
  - iii. These forms must be approved by the Head of Procurement and Executive Director of Finance / Chief Executive depending on the value.

### **1.6.2 Competitive Quotations**

- a) Quotations should be obtained based on specifications or terms of reference prepared by, or on behalf of, the Trust.
- b) Quotations should be in writing unless the Chief Executive or their 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.
- c) All quotations should be treated as confidential and should be retained for inspection.
- d) The Chief Executive or their 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 Trust, or the highest if payment is to be received by the Trust, then the choice made and the reasons why should be recorded in a permanent record.
- e) Terms and conditions must be evaluated as part of any quotation award decision.

### **1.6.3 Non-Competitive Quotations**

- a) 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 as a matter of urgency and are not obtainable under existing contracts;
  - iii. Where the goods or services are for building and engineering maintenance where the responsible works manager can confirm there is a proprietary system/solution in place or specialist experience of the Trust is of commercial benefit to maintain an existing supplier.

### **1.6.4 Quotations that fall outside Financial Limits**

- a) As the markets and required specification with dictate the quoted price, appropriate approval must be sought for additional funding to be made available before a quotation can be accepted that falls outside the financial limits allocated for this good, service or building works.

## **1.7 TENDERING**

- 1.7.1 The available procurement procedures available to be undertaken shall be shaped by the category of activity being tendered. The Common Procurement Vocabulary (CPV) codes are directly linked to the allocation of thresholds:

- a) Light Touch Regime (LTR) Services
  - i. Defined as only the CPV codes listed within Schedule 3 of the Regulations
- b) Works
  - i. Defined as only the CPV codes listed within Schedule 2 of the Regulations
- c) Supplies and Services
  - i. Defined as all other CPV codes not listed as LTR or Works

### **1.7.2 Exceptions and instances where formal tendering need not be applied.**

- a) Formal tendering procedures need not be applied where:
  - i. The estimated expenditure or income does not, or is reasonably not expected to, exceed £100,000.
  - ii. Where the supply is proposed under special arrangements negotiated by the DoH in which event the said special arrangements must be complied with;
  - iii. Regarding disposals as set out in clause 16;
- b) Formal tendering procedures may be waived by the Executive Director of Finance in the following circumstances:
  - i. Where explicitly defined within the Regulations that there is an exemption
  - ii. Where the requirement is covered by an existing contract, such that it would not lead to a material change;

- iii. Complaint routes to market exist that provide access to the Trust, these may take the form of;
  - National Contracts, through the management function of NHS Supply Chain known as Supply Chain Co-ordination Limited (SCCL) or by successor organisation Central Government Functions that tender on behalf of the wider public sector, i.e., Crown Commercial Services (CCS) or successor organisation
  - Procurement Hubs that have undertaken compliant procurement activity to provide their members with “Frameworks”. Any such access must be assessed and all requirements of the framework owner must be met. This may take the form of a “Direct Award” or “Mini-Competition”
  - Contracts let by other public bodies that have made a provision for other public sector organisations to access. Any such access must be assessed and all requirements of the contract owner must be met
  - Where a consortium or collaborative arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members; of which the Trust is a Lead Provider.
- iv. Where the timescale genuinely precludes competitive tendering. Failure to plan the work is not a justification for waiving formal tendering;
- v. Where specialist expertise is required and is available from only one source;
- vi. 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;
- vii. 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;
- viii. For the provision of legal advice and services as defined in the Regulations as eligible for an exemption
  - The Executive Director of Finance will ensure that any fees paid are reasonable and within commonly accepted rates for the costing of legal advice and services
- c) 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.
- d) Where it is agreed by the Chief Executive Officer or Executive Director of Finance that competitive tendering is not applicable and should be waived, a single tender waiver must be completed and the reasons should be documented and recorded by the completion and approval of a waiver form and reported to the Audit Committee.

### **1.7.3 Contracting/Tendering Procedure**

- a) All tendering activity shall be undertaken using Electronic Tender Documentation (ETD) and the Trust's eSourcing system.
- b) All Tendering activity above threshold shall follow the prescribed procedures and mandated timescales within the regulations.
  - i. Where below threshold, tendering procedures shall follow the principles of the prescribed procedures and ensure reasonable timescales are allocated.

### **1.7.4 Participation**

- a) The Trust is required to publish all relevant notices. Where an opportunity is advertised, the Trust must publish all opportunities over £25,000 on Contracts Finder.
- b) The Trust operates an electronic tendering system. All invitations to participate must be requested and received using the eSourcing system.
- c) The mandatory questions relating to mandatory and discretionary grounds for exclusion shall be asked of all participants, irrelevant of value.
- d) All Tenders shall as a minimum include the following documentation:
  - i. A full outline of the procedure methodology to be undertaken.
  - ii. Evaluation criteria and scoring methodology.
  - iii. The terms and conditions of contract.
  - iv. Response deadliness and requirements.
- e) Approved supplier lists
  - i. As a public sector body the Trust may not hold its own "approved supplier list", where "approved supplier" is defined as a list of suppliers eligible to bid for business opportunities.
  - ii. All opportunities must be advertised and competition sought in a proportional and compliant manner.
  - iii. Evaluation methodologies must be sufficient to ensure bidders can be evaluated to ensure, as a minimum, they are;
    - Of good standing,
    - Suitably experienced,
    - Capable of delivering the contract.
    - Have capacity to carry out the contract.

### **1.7.5 Opening of tenders**

- a) All tenders shall be accepted only via the eSourcing system, and shall be received within an "electronic seal". Bids shall not be able to be opened until the submission deadline has passed and the "seal is broken".
- b) Tenders shall be opened by the Head of Procurement, or delegated officer, and shall be recorded within the audit log of the eSourcing System.
- c) The officer opening the Tender must be independent of the tenders lead procurement officer.

### **1.7.6 Admissibility**

- a) All tenders that meet all of the following shall be accepted
  - i. Received on time

- ii. Are Complete, i.e., all documents required have been submitted.
- iii. Bidder meets all of the participation requirements.

#### **1.7.7 Late tenders**

- a) Tenders received after the due time and date, but prior to the opening of the other tenders, may be considered at the discretion of the Chief Executive or their nominated officer. For example:
  - i. Technical issues that prevented the bidder from meeting the submission deadline.
  - ii. That accepting the late tender is in the best interest of the competitiveness of the procurement exercise.
- b) Once the seal is “broken” through the electronic portal no further late tenders can be received by the Trust.

#### **1.7.8 Evaluation of formal tenders**

- a) Clarifications may be sought from bidders following receipt of tenders.
  - i. These must be carried out in an open fair, and equitable manner such that no perception of bias can be demonstrated.
  - ii. Any such clarification is for clarifying existing information and is not for the purposes of changing / re-submitting a response.
  - iii. Must be recorded within the eSourcing system.
  - iv. There must be absolutely no communication outside of the eSourcing system in relation to the relevant tender.
- b) The published evaluation methodology for the specific tender must be followed. Deviation from this methodology is not permitted.
- c) All evaluations must be recorded, and justifications for any scores allocated must be recorded within the eSourcing system.
- d) The final award decision must demonstrate that it will deliver the level of quality of goods or provision of service in line with the Trust specification and Value for Money achieved.

#### **1.7.9 Abnormally low tenders**

- b) The Trust has a requirement under Regulation 69 of the regulations to evaluate all tender values submitted and where a tender appears to be abnormally low in relation to the works, supplies or services, the Trust has to require an explanation of the price / costs in the proposed tender from the tenderer concerned.
  - i. Before rejecting an apparently abnormally low tender, the Trust must request in writing details of the constituent elements of the tender which are considered relevant for the appraisal or verification of its apparent anomaly, such as:
    - the economics of the manufacturing process, of the services provided or of the construction method;
    - technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the supply of the products or services or for the execution of the work;
    - the originality of the work, supplies or services proposed by the tenderer;

- Compliance with the environmental, labour, and social obligations referred to in Regulation 56(2); or
  - Compliance with the subcontracting obligations established in Regulation 71; and
  - The possibility of the tenderer obtaining State aid, Regulation 69(2)
- ii. In view of the evidence supplied by the tenderer upon consultation, the Trust shall verify those constituent elements and reach a final decision on whether to reject the apparently abnormally low tender or not.

#### **1.7.10 Award of Tenders**

- a) All contract awards following a tender process must include:
- i. All bidders informed of the outcome, via an “intent to award” notice. Any such communication must provide the relevant level of detail to de-brief the participants on the outcomes of the process.
  - ii. A stand still period (10 days Alcatel Period) Good practice to adhere to.
  - iii. A notice to the successful supplier(s) following the end of the standstill period, to conclude the award process.
- b) Only following the completion of the standstill period may the Trust enter into a contract.
- c) Only in exceptional circumstances may a supplier begin delivery of goods/services to the Trust prior to the contract being finalised and signed.
- d) On completion of award, a Regulation 84(1) report must be completed. This report must be stored within the eSourcing system for audit purposes.
- i. A Regulation 84(1) report is not required for contracts called off under a framework agreement, if;
    - The framework agreement is with a single supplier and is awarded in accordance with Regulation 33(7), or
    - The framework agreement is with more than one supplier but the call-off contract is awarded without reopening competition in accordance with Regulation 33(8)(a)
  - ii. Note that in all other cases a Regulation 84(1) report will be required for a call-off contract.

#### **1.7.11 Tender reports to the CoCo**

- a) Reports to the appropriate Executive/Committee/Decision Making Group identified in the Scheme of Delegation will be made on all contract values exceeding £250,000.

### **1.8 ITEMS WHICH SUBSEQUENTLY BREACH THRESHOLDS AFTER ORIGINAL APPROVAL**

- 1.8.1 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 Executive Director of Finance.
- a) Where a procurement exercise has been undertaken using a process complaint below a threshold, and the result is above the threshold it shall be abandoned, as it cannot be awarded, and compliant process undertaken.

- b) Where contracts are varied over their duration, any material change that sufficiently alters the nature of the contract from its original award shall be assessed under the regulations relating to material change. Where it is identified that these variations are triggering a “material change”, then the variation shall not be authorised and a new procurement undertaken to award a complaint contract that incorporates this change.

### **1.9.1 PILOT EXERCISES**

- 1.9.1 Any Pilot that is undertaken, must ensure;
  - a) That it is no longer than 18 months in duration.
  - b) There is a clear audit of how the supplier(s) were appointed.
  - c) The solution being trailed must not lock the Trust into any proprietary system / solution.
  - d) A clear evaluation methodology must be published as part of the award, to enable a measurable and recorded outcome.
  - e) On completion, if successful, the information must be used to generate a specification and the requirement tendered accordingly.
- 1.9.2 Pilot exercises must not be used as an excuse for avoiding tendering procedures.

### **1.10 TRANSPARENCY OF AWARDED CONTRACTS**

- 1.10.1 All contracts entered into on behalf of the Trust must be signed by a duly authorised individual, as per the Scheme of Delegation.
  - a) All contracts awarded must fully comply with;
    - i. These Standing Financial Instructions
    - ii. All applicable legislation
    - iii. Have clear definitions and appropriate markings to highlight any elements that are “*commercially confidential*” in line with the latest FOIA and associated guidance.
  - b) The Head of Procurement shall be informed when a contract has been let and provided with;
    - i. A copy of the final signed contract
    - ii. A summary statement of the process undertaken to award the contract and how this was compliant with these SFIs.
  - c) Once awarded, all contracts in excess of £25,000 inclusive of VAT must have the correct contract award notice(s) published:
    - i. ALL contracts must be published to the Trust publicly facing contracts register.
    - ii. As per Regulation 112 for the Regulations, contracts awarded over £25,000 must also be published on the UK Government website: “Contracts Finder” (or successor).

## **1.11 PRIVATE FINANCE FOR CAPITAL PROCUREMENT**

- 1.11.1 The Trust may 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.
- 1.11.2 The Chief Executive shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector.
- 1.11.3 The Trust must comply with NHS England's "Roles and Responsibilities in the approval of NHS Foundation Trust PFI schemes" and consider the "Risk Evaluation for Investment decisions by NHS Foundation Trusts".
- 1.11.4 Where the sum exceeds the thresholds set out in the Single Oversight Framework, the proposal must be submitted to NHS England. NHS England does not have any role in approving such plans, but it will consider the impact on the Trust's financial risk rating.
- 1.11.5 The proposal must be specifically agreed by the Board.
- 1.11.6 The selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

## **1.12 COMPLIANCE REQUIREMENTS FOR ALL CONTRACTS**

- 1.12.1 The Board may only enter into contracts on behalf of the Trust within its statutory powers and shall comply with:
  - a) The Trust's Constitution, Terms of Authorisation, Standing Orders and Standing Financial Instructions;
  - b) And other statutory provisions;
  - c) Any relevant guidance published by the Independent Regulator and the Department of Health and guidance on the Procurement and Management of Consultants;
  - d) Such of the NHS Standard or Model Contract Conditions as are applicable.
  - e) 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.
  - f) In all contracts made by the Trust, 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 Trust.

## **1.13 PERSONNEL AND AGENCY OR TEMPORARY STAFF CONTRACTS**

- 1.13.1 The Executive Director responsible for human resources shall nominate officers with delegated authority to enter into contracts of employment, regarding staff, agency staff or temporary staff service contracts. Nationally or regionally contracts negotiated on behalf of the NHS should be used wherever possible, as specific NHS terms and conditions will be included to minimise risk to the Trust.

## **1.14 IN-HOUSE SERVICES**

- 1.14.1 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 Trust may also

determine from time to time that in-house services should be market tested by competitive tendering.

1.14.2 In all cases where the Board determines that in-house services should be subject to competitive tendering:

- a) The specification must not be biased towards the in-house service
- b) A decision shall be made, and rationale recorded, as to where an external third party is required to mitigate any conflicts of interest such that:
  - i. The Trust can assure the market that the exercise being undertaken is fair, transparent and a “level playing field”
  - ii. The evaluation panel is independent of the in-house service
  - iii. How the in-house team and the decision-making process shall be segregated and kept independent.

1.14.3 The outcome of the procurement shall be presented as a contract recommendation to the Board and an internal contract shall be awarded in the same manner as a normal tender conclusion.

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

1.14.4 Award to Wholly Owned Subsidiary shall follow Teckal guidelines and 8.14.4 most recent case law informing this guidance.

## **1.15 APPLICABILITY OF SFIS ON TENDERING AND CONTRACTING TO FUNDS HELD IN TRUST**

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

## 2 CONTRACTING FOR PROVISION OF SERVICES

### *Key Points*

*All contracting activity shall ultimately be governed by the UK Public Contracts Regulations 2015 (the Regulations). All Employees who are involved in the exercise of commissioning or bidding activities must follow the procedures set out below.*

*An employee who is involved in any such activities must declare any conflict of interest directly to the Executive Director of Finance for it to be recorded and appropriate actions to be undertaken to mitigate the associated risk.*

### 2.1 SERVICE CONTRACTS

- 2.1.1 The Chief Executive, as the Accountable Officer, is responsible for ensuring the Trust enters into suitable legally binding Service Contracts with NHS commissioners for the provision of both the mandatory services specified in the Terms of Authorisation and also other services. On behalf of the Chief Executive, the Executive Director of Finance will lead on the agreement of contracts with commissioners.
- 2.1.2 All service contracts should aim to implement the agreed priorities contained within the Annual Plan. In discharging this responsibility, the Executive Director of Finance should take into account:
  - a) the standards of service quality expected, including those published by the Secretary of State under Section 46 of the 2006 Act;
  - b) the relevant national service frameworks and guidelines published by the National Institute of Clinical Excellence;
  - c) national tariffs published by the Department of Health or other agreed local pricing mechanisms where national tariffs do not apply;
  - d) the need to provide ancillary and other supporting services essential to the delivery of the healthcare involved;
  - e) the provision of reliable information on cost, quality and volume of services;
  - f) previously agreed developments or investments plans;
  - g) payment terms and conditions; and
  - h) amendments to contracts and extra-contractual arrangements/SPA's.
- 2.1.3 Contracts should be so devised as to achieve activity and performance targets, minimise risks and maximise the Trust's opportunity to generate income.
- 2.1.4 The Executive Director of Finance shall produce regular reports detailing actual and forecast contract income where appropriate linked to activity with a detailed assessment of the impact of the variable elements of income.
- 2.1.5 Any pricing of contracts at marginal cost must be agreed by the Executive Director of Finance and reported to the CoCo.
- 2.1.6 Services provided to non-NHS organisations with a value greater than £250,000 over a 3-year period or the period of the contract if longer, must be performed under a legal contract and approved by the Finance, Performance & Productivity Committee and over £2m by the Board.

- 2.1.7 The risks and revenue streams associated with non-NHS activities should be appropriately insured with commercial (i.e., non-NHS RESOLUTION) underwriters.

### **3 NON-PAY EXPENDITURE**

#### *Key points*

*Employees, in choosing goods and services, shall always obtain the best value for money for the Trust.*

*Logs of purchase card activity must be submitted to the Finance department on a monthly basis.*

#### **3.1 DELEGATION OF AUTHORITY**

3.1.1 The CoCo will approve the level of non-pay expenditure via budget setting on an annual basis and the Chief Executive will determine the level of delegation to budget owners via budget setting.

3.1.2 The Chief Executive will set out:

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

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

#### **3.2 CHOICE, REQUISITIONING, ORDERING, RECEIPT AND PAYMENT FOR GOODS AND SERVICES**

3.2.1 Any employee authorised to requisition goods or services shall comply with procedures issued by the Executive Director of Finance and, in choosing the item to be supplied (or the service to be performed), shall always obtain the best value for money for the Trust. In so doing, the advice of the Procurement Department shall be sought. In case of any area of doubt, the Executive Director of Strategy, People, and Partnerships shall make the final adjudication.

3.2.2 The Executive Director of Finance shall be responsible for the prompt payment of all properly authorised accounts and claims. Payment of contract invoices shall be in accordance with contract terms, or otherwise, in accordance with national guidance. Payment for goods and services shall only be made once the goods and services are received (except for prepayments as below).

3.2.3 The Executive Director of Finance will:

- a) agree with the CoCo 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 regularly reviewed;
- b) prepare procedural instructions [where not already provided in the Scheme of Delegation or procedure notes for budget holders] 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. Certification that:
    - goods have been duly received, examined and are in accordance with specification and the prices are correct;
    - work done or services rendered have been satisfactorily carried out in accordance with the order, and, where applicable, the materials used are of the requisite standard and the charges are correct;
    - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for the use of vehicles, plant and machinery have been examined;
    - where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
    - the account is arithmetically correct;
    - the account is in order for payment
  - ii. 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 (except as paragraph 11.2.4).

3.2.4 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., cashflows must be discounted to NPV) and the intention is not to circumvent cash limits or other budgetary constraints;
- b) the appropriate budget owner must provide, in the form of a written report, a case setting out all relevant circumstances of the purchase. The report must set out the effects on the Trust if the supplier is at some time during the course of the prepayment agreement unable to meet its commitments;
- c) the Executive Director of Finance will need to be satisfied with the proposed arrangements before contractual arrangements proceed;
- d) the budget owner is responsible for ensuring that all items due under a prepayment contract are received and he must immediately inform the appropriate Director or Chief Executive if problems are encountered;
- e) Some items of expenditure may be paid for in advance, these are limited to: training places, travel and hotel accommodation.

3.2.5 Official Orders must:

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

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

- a) all contracts [other than for a simple purchase permitted within the Scheme of Delegation or delegated budget], leases, tenancy agreements and other commitments which may result in a liability are notified to the appropriate person set out in the Scheme of Delegation in advance of any commitment being made
- b) all orders are placed in advance of commitment to the supplier and goods or services being delivered
- c) contracts above specified thresholds (see Scheme of Delegation) are advertised and awarded in accordance with section 8;
- 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
- e) no requisition/order is placed for any item or items for which there is no budget provision unless authorised by the Executive 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, incidental purchases from petty cash and items obtained through the legitimate use of a Trust Purchase Card;
- 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, delegated limits or rules on virement/budget journal;
- i) goods are not taken on trial or loan in circumstances that could commit the Trust to a future uncompetitive purchase;
- j) purchases from petty cash are restricted in value and by type of purchase in accordance with instructions issued by the Executive Director of Finance;
- k) petty cash records are maintained in a form as determined by the Executive Director of Finance;
- l) all requisitions, orders and petty cash disbursements are to be correctly coded and made available for checking by the Finance Department;
- m) certification of satisfactory delivery of the goods or services to the Finance Department is completed through the part-delivery advice (PDA) or "goods received note" process within 48 hours of receipt.

3.2.7 The Executive 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.

### **3.3 DELEGATED ORDERING, USE OF PURCHASING CARDS**

3.3.1 The Executive Director of Finance in conjunction with the Trust's Finance Department, shall ensure that there are robust arrangements for controlling expenditure by Nominated Managers through the use of "purchase cards" to include:

- a) a requirement for all holders of such cards to confirm in writing that they have understood the relevant terms and conditions provided to them by the issuing bank and their responsibility with regard to security and use of the card
- b) controls including the use of purchasing activity logs (recording all purchases made with the card) which will then be submitted to the Finance Department on a monthly basis (or as requested) within prescribed timescales
- c) written confirmation from the card holder that they will ensure that their card is only used to make "bona fide" Trust purchases
- d) a requirement for any inadvertent personal use of such cards to be reimbursed to the Trust immediately and in full.

## 4 INFORMATION TECHNOLOGY

### *Key points*

*The role of Senior Information Risk Officer (SIRO) is undertaken by the Executive Director of Finance. All IT systems will have an Information Asset Owner(IAO).*

- 4.1 The Chief Executive shall ensure that risks to the Trust arising from the use of IT are effectively identified and considered and appropriate action taken to mitigate or control risk. This shall include the preparation and testing of appropriate disaster recovery and business continuity plans.
- 4.2 The Executive Director of Finance is responsible for the accuracy and security of the computerised financial data of the Trust. This includes fulfilling the role of SIRO, which comprises the following duties:-
  - 4.2.1 Understand how the strategic business goals of the Trust may be impacted by information risks.
  - 4.2.2 Act as an advocate for information risk on the Board and in internal discussions.
  - 4.2.3 Take ownership of risk assessment processes for information risk.
  - 4.2.4 Review and agree actions in respect of identified information risk.
  - 4.2.5 Ensure the Trust's approach to information risk is effective in terms of resource, commitment and execution and that this is communicated to all staff.
  - 4.2.6 Provide a focal point for the resolution/ discussion of information risk issues where necessary.
  - 4.2.7 Ensure the Board is adequately briefed on information risk issues.
- 4.3 The Executive Director of Finance will identify Information Asset owners for all IT systems. IAO's have responsibility to:
  - 4.3.1 Understand and address risks to the information asset/ system they 'own'.
  - 4.3.2 Provide assurance to the Senior Information Risk Officer (SIRO) on the security and use of the assets.
  - 4.3.3 Ensure completion of relevant documentation prior to the implementation of a new system.
  - 4.3.4 Lead and foster a culture that values, protects and uses information for the public good.
  - 4.3.5 Perform annual Data Protection Health check on systems/ asset and Confidentiality Audits.
  - 4.3.6 Knows what information the asset holds, and what enters and leaves it and why knows who has access and why and ensures their use of it is monitored.
  - 4.3.7 Devise and implement any necessary procedures to ensure adequate (reasonable) protection of the Trust's data, programs, and computer hardware for which he is responsible from accidental or intentional disclosure to unauthorised persons,

deletion or modification, theft, or damage, having due regard for the Data Protection Act, Human Rights Act and the Freedom of Information Act.

- 4.3.8 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.
- 4.3.9 Ensure that adequate controls exist such that the computer operation is separated from development, maintenance, and amendment.
- 4.3.10 Ensure that an adequate management (audit) trail exists through the computerised system and that such computer audit reviews as he may consider necessary are being carried out.
- 4.4 The Executive Director of Finance shall satisfy themselves 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 will be obtained from them prior to implementation.
- 4.5 The Executive Director of Finance shall ensure that contracts for computer services for applications with any organisation or 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.
- 4.6 Where another health organisation or any other agency provides a computer service for applications, the Executive Director of Finance shall periodically seek assurances that adequate controls are in operation.

## **5 RETENTION OF RECORDS**

- 5.1 The Chief Executive shall be responsible for maintaining archives for all records required to be retained under the direction contained in "Records Management Code of Practice 2021", and to enable requests under the Freedom of Information Act (2000), to be met.
- 5.2 The records held in archives shall be capable of retrieval by authorised persons.
- 5.3 Records held under the "Records Management Code of Practice 2021" shall be managed, including destruction in accordance with the Trust Policies, which will comply with Data Protection and National Information Governance requirements.

## **6 RISK MANAGEMENT AND INSURANCE**

6.1 The Chief Executive shall ensure that the Trust has a programme of risk management which will be approved and monitored by the Clinical Governance Committee.

### **6.2 The programme of Risk Management shall include:**

6.2.1 a process for identifying and quantifying risks and potential liabilities;

6.2.2 engendering among all levels of staff an understanding and a positive attitude towards the control of risk;

6.2.3 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;

6.2.4 mitigation plans to offset the impact of adverse events;

21.2.5 the Commissioning Board Assurance Framework, and Lead Provider Risk Register.

### **6.3 INSURANCE: RISK POOLING SCHEMES ADMINISTERED BY NHS RESOLUTION**

6.3.1 The Board shall decide if the Trust will insure through the risk pooling schemes administered by the NHS Resolution 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.

### **6.4 INSURANCE ARRANGEMENTS WITH COMMERCIAL INSURERS**

6.4.1 The Executive Director of Finance shall ensure that appropriate and adequate commercial insurance arrangements are in place.

## **7 BUSINESS DEVELOPMENT**

*This section relates to all business development activity for new business, retention of existing business, or expansion of existing business. This includes formal tenders, applications for funding, external business cases for funding, and grant applications.*

- 7.1.1 All business development activity must be fully assessed for the strategic fit and the delivery, financial and clinical risk associated with the opportunity by completion of a Business Development Assessment Proforma by the Business Development team.
- 7.1.2 Approval must be sought prior to submission as follows:
  - a) business developments over £150,000 by the Executive Team
  - b) business developments under £150,000 by the Director of Finance or Director of Strategy, People and Partnerships.
- 7.1.3 The financial model must be agreed with the Director of Finance prior to submission
- 7.1.4 The delivery/clinical model must be agreed with the Director of Operations (or relevant Executive Director) prior to submission
- 7.1.5 The overall submission must be agreed with the Director of Strategy, People and Partnerships prior to submission.
- 7.1.6 Partner evaluation and due diligence must be carried out before entering into any partnership arrangements associated with the business development, and this must be approved by the Executive Team before any agreement is entered into.
- 7.1.7 Where a business development may meet the definition of a 'significant transaction', the Trust's Significant Transactions Policy (March 2020) must be followed.