

TRUST-WIDE NON-CLINICAL POLICY DOCUMENT

STANDING FINANCIAL INSTRUCTIONS

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2017 / 18 – Version 2

Quality, recovery and
wellbeing at the heart
of everything we do



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STANDING FINANCIAL INSTRUCTIONS

Further information about this document:

Document name	Standing Financial Instructions (F02)	
Document summary	The Standing Financial Instructions detail the financial responsibilities, policies and procedures adopted by the Trust. They are designed to ensure financial transactions are carried out in accordance with statute and policy in order to achieve probity, accuracy, economy, efficiency and effectiveness.	
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This document can be made available in a range of alternative formats including various languages, large print and braille etc		
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SUPPORTING STATEMENTS – this document should be read in conjunction with the following statements:

SAFEGUARDING IS EVERYBODY'S BUSINESS

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and vulnerable adults, including:

- being alert to the possibility of child/vulnerable adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child/vulnerable adult;
- knowing how to deal with a disclosure or allegation of child/adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child/vulnerable adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the Trust's safeguarding team;
- participating in multi-agency working to safeguard the child or vulnerable adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

EQUALITY AND HUMAN RIGHTS

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

The Trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The Trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line with a Human Rights based approach and the FREDAs principles of **Fairness, Respect, Equality Dignity, and Autonomy**

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INTERPRETATION AND DEFINITIONS FOR STANDING FINANCIAL INSTRUCTIONS AND SCHEME OF RESERVATION AND DELEGATION OF POWERS

- a) Unless otherwise stated, words or expressions contained in these Standing Financial Instructions and the Scheme of Reservation and Delegation of Powers shall bear the same meaning as in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012.
- b) Words importing the masculine gender only shall include the feminine gender; words importing the singular shall import the plural and vice-versa.
- c) In the Standing Financial Instruction and the Scheme of Reservation and Delegation of Powers the following definition apply:
- **the 2006 Act** is the National Health Service Act 2006.
 - **the 2012 Act** is the Health and Social Care Act 2012.
 - **the Accounting Officer** is the person who from time to time discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act and shall be the officer responsible and accountable for funds entrusted to the Trust in accordance with the NHS Foundation Trust Accounting Officer Memorandum. They are responsible for ensuring the proper stewardship of public funds and assets. The 2006 Act designates the Chief Executive as the Accounting Officer.
 - **Annual Members' Meeting** is defined in Paragraph 12 of the Constitution.
 - **Auditor** means the *external auditor* appointed by the Council of Governors in accordance with the Constitution. This role is distinct from the *internal auditor* as described in paragraph 2.3 of the Standing Financial Instructions,
 - **the Board of Directors** means the Board of Directors as constituted in accordance with the Constitution.
 - **the Board** means the Board of Directors.
 - **Budget** means a resource, expressed in financial terms, proposed by the Board for the purpose of carrying out, for a specific period, any or all of the functions of the Trust.
 - **Budget holder** means the Executive Director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisations' budget.
 - **the Chairman** means the Chairman on the Trust appointed in accordance with the Constitution to lead the Board of Directors and the Council of Governors to ensure they successfully discharge their overall responsibilities for the Trust as a whole **or**, in relation to the function of presiding at or chairing a meeting where another person is carrying out that role as required by the Constitution, the person chairing the meeting.
 - **Chief Executive** means the chief officer (and accounting officer) of the Trust.

- **Commissioning** means the process for determining the need for and for obtaining the supply of healthcare and related services for the Trust within available resources.
- **Committee** means a committee or sub-committee created and appointed by the Board of Directors.
- **Committee members** means persons formally appointed by the Board of Directors or the Council of Governors to sit on or to chair specific committees.
- **the Constitution** means the Constitution of the Trust as approved by the Board of Directors and the Council of Governors (it describes the governance and membership arrangements for the Trust and includes the Standing Orders for the Board of Directors, the Council of Governors and committees).
- **Contracting and procuring** means the systems for obtaining the supply of goods, materials, manufactured items, services, building and engineering services, works of construction and maintenance and for disposal of surplus and obsolete assets.
- **the Council of Governors** means the Council of Governors as constituted in accordance with the Constitution.
- **Director** means a person appointed to the Board of Directors in accordance with the Constitution and includes the Chairman.
- **E-Procurement Systems or E-Tendering Systems** means those electronic purchasing, tendering or procurement portals or systems designated by the Executive Director of Finance for use within the Trust by nominated officers.
- **Executive Director** means an executive director of the Trust who is a voting member of the Board of Directors in accordance with the Constitution.
- **Executive Director of Finance** means the chief financial officer of the Trust.
- **the Foundation Trust** means Mersey Care NHS Foundation Trust.
- **Financial Limits** means the delegated financial limits set out in Table B of the Scheme of Reservation and Delegation of Powers.
- **Funds held on Trust** shall mean those funds which the Trust holds on date of incorporation, receives on distribution by statutory instrument or chooses subsequently to accept under powers derived under the NHS Act 2006, as amended. Such funds may or may not be charitable.
- **Governor** means a governor elected by the members or appointed by the Trust in accordance with the Constitution.
- **Lead Governor** means the governor appointed by the Council of Governors in accordance with the Constitution.
- **Member** means a member of the Trust as defined in the Constitution.
- the **MHA** means the Mental Health Act 1983.
- **NHS Improvement** is the corporate body established as provided by Section 61 of the 2012 Act (formerly know as Monitor).
- **NHS Commissioning Board** is the body corporate established pursuant to Section 1H of the 2006 Act, known as NHS England.

- **NHS England** is the NHS Commissioning Board.
- **NHS Provider Licence** means the licence which contains the conditions placed on the Trust as a provider of NHS services in respect of its authorisation as Foundation Trust by the regulator (NHS improvement, formerly know as Monitor).
- **Nominated Officer** means an officer charged with responsibility for discharging specific tasks in accordance with the Constitution (Standing Orders), the Standing Financial Instructions or the Scheme of Reservation and Delegation of Powers.
- **Non-Executive Director** means a member of the Board of Directors appointed in accordance with the Constitution who is not an officer of the Trust.
- **Officer** means an employee of the Trust.
- **SFI's** means *Standing Financial Instructions*.
- **SO's** means *Standing Orders* (which are available in the Constitution for both the Council of Governors and the Board of Directors).
- **SoRDP (or SoRD)** means *Scheme of Reservation and Delegation of Powers*.
- **Vice-Chairman** means the Non-Executive Director appointed in accordance with the Constitution to take on the Chairman's duties if the Chairman is absent for any reason.
- **Risk Assessment Framework** means the guidance of the same name published by Monitor (now NHS Improvement) in August 2015.
- **the Trust** means Mersey Care NHS Foundation Trust.
- **Trust Secretary** means the secretary of the Trust or any other person appointed to perform the duties of the secretary including a secretarial assistant.

1. INTRODUCTION

1.1. General

- 1.1.1. These *Standing Financial Instructions* detail the financial responsibilities, policies and procedures adopted by the Mersey Care NHS Foundation Trust (referred to as the “Trust”). They are designed to ensure that the Trust's financial transactions are carried out in accordance with the law, with Government policy and with other good practice in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the *Constitution* and the *Scheme of Reservation and Delegation and Powers* which have been adopted by the Trust.
- 1.1.2. The Trust is a *Public Benefit Corporation* following approval by the Independent Regulator of NHS Foundation Trusts (known as Monitor or NHS Improvement) pursuant to the National Health Service Act 2006 (the “2006 Act”). The Trust is governed by the 2006 Act, as amended by the Health and Social Care Act 2012 (or subsequent statute, its Constitution and the NHS Provider Licence granted by Monitor / NHS improvement. The functions of the Trust are conferred by the Regulatory Framework and the Trust is required to comply with the guidance issued by Monitor / NHS Improvement. These *Standing Financial Instructions*, their content and approval are the sole responsibility of the Board of Directors and are not required to be submitted for approval to any group or organisation including Monitor / NHS Improvement or the Council of Governors.
- 1.1.3. These Standing Financial Instructions identify the financial responsibilities which apply to everyone working for the Trust and its constituent organisations including trading units. They do not provide detailed procedural advice and should be read in conjunction with the detailed departmental and financial procedure notes. All financial procedures must be approved by the Executive Director of Finance or delegated officers.
- 1.1.4. Should any difficulties arise regarding the interpretation or application of any of the Standing Financial Instructions then the advice of the Executive Director of Finance must be sought before acting. The user of these Standing Financial Instructions should also be familiar with and comply with the provisions of the Trust's Constitution.
- 1.1.5. **The failure to comply with these Standing Financial Instructions, the Constitution, the Standing Orders and the Scheme of Reservation and Delegation of Powers could be regarded as a disciplinary matter that may result in dismissal.**
- 1.1.6. **Overriding Standing Financial Instructions** – If for any reason these Standing Financial Instructions are not materially complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance shall be reported to the next formal meeting of the Audit Committee for referring action or ratification. All Members of the Board of Directors

and staff have a duty to disclose any non-compliance with these Standing Financial Instructions to the Executive Director of Finance as soon as possible.

1.2. Responsibilities and delegation

1.2.1. *The Board of Directors* –

- (a) the Board of Directors exercises financial supervision and control by:
 - (i) formulating the Financial Strategy;
 - (ii) requiring the submission and approval of budgets within approved allocations/overall income;
 - (iii) defining and approving essential features in respect of important procedures and financial systems (including the need to obtain value for money); and
 - (iv) defining specific responsibilities placed on Members of the Board of Directors and employees as indicated in the *Scheme of Reservation and Delegation of Powers* document.
- (b) the Board of Directors has resolved that certain powers and decisions may only be exercised by the Board of Directors in formal session. All other powers have been delegated to such other committees or members of staff. The details of this are set out in the *Scheme of Reservation and Delegation of Powers*.

1.2.2. *The Chief Executive and Executive Director of Finance* –

- (a) the Chief Executive and Executive Director of Finance will, as far as possible, delegate their detailed financial authority, but they remain responsible and accountable for financial control being exercised appropriately.
- (b) within the Standing Financial Instructions, it is acknowledged that the Chief Executive is ultimately accountable to the Board of Directors and, as Accountable Officer, to Monitor / NHS Improvement, for ensuring that the Board of Directors meets its obligation to perform its functions within the available financial resources. The Chief Executive has overall executive responsibility for the Trust's activities; is responsible to the Chairman and the Board of Directors for ensuring that its financial obligations and targets are met and has overall responsibility for the Trust's system of internal control.
- (c) it is a duty of the Chief Executive to ensure that Members of the Board of Directors, employees and all new appointees are notified of, and put in a position to understand their responsibilities within these Instructions.

1.2.3. ***The Executive Director of Finance –***

- (a) the Executive Director of Finance is responsible for:
- (i) implementing the Trust's financial policies and for coordinating any corrective action necessary to further these policies;
 - (ii) maintaining an effective system of internal financial control including ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions;
 - (iii) 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
 - (iv) without prejudice to any other functions of the Trust, and employees of the Trust, the duties of the Executive Director of Finance include:
 - the provision of financial advice to other Members of the Board of Directors and employees;
 - the design, implementation and supervision of systems of internal financial control;
 - the preparation and maintenance of such accounts, certificates, estimates, records and reports as the Trust may require for the purpose of carrying out its statutory duties.

1.2.4. ***Board of Directors Members and employees –***

- (a) all Members of the Board of Directors and employees, severally and collectively, are responsible for:
- (i) the security of the property of the Trust;
 - (ii) avoiding loss;
 - (iii) exercising economy and efficiency in the use of resources;
 - (iv) conforming with the requirements of the Constitution, the Standing Orders, the Standing Financial Instructions, Financial Procedures and the Scheme of Reservation and Delegation of Powers.

1.2.5. ***Contractors and their employees –***

- (a) 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.

- (b) for all Members of the Board of Directors and any employees who carry out a financial function, the form in which financial records are kept and the manner in which Members of the Board of Directors and employees discharge their duties must be to the satisfaction of the Executive Director of Finance.

2. AUDIT

2.1. Audit Committee

2.1.1. In accordance with the Constitution, the Board of Directors shall formally establish an Audit Committee, with clearly defined terms of reference and following guidance from the latest Foundation Trust Code of Governance and Audit Code for NHS Foundation Trusts issued by Monitor / NHS Improvement, any other relevant directions and guidance issued by Monitor / NHS Improvement or any other relevant body, which will provide an independent and objective view of internal control by:

(a) **Authority**

- (i) the Committee is authorised by the Board of Directors to investigate any activity within its terms of reference, and will utilise this authorisation rigorously should the need arise;
- (ii) it is authorised to seek any information it requires from any employee and all employees are directed to co-operate with any request made by the Committee;
- (iii) the Committee is authorised by the Board of Directors to obtain outside legal or other independent professional advice and to secure external expertise if it considers this necessary.

(b) **Duties**- the duties of the Committee can be categorised as follows:

(i) **Governance, Risk Management and Internal Control**

- the Audit Committee shall review the establishment and maintenance of an effective system of governance, risk management and internal control, across the whole of the organisation's activities (both clinical and non-clinical), that supports the achievement of the organisation's objectives.
- in carrying out this work the Committee will primarily utilise the work of Internal Audit, External Audit and other assurance functions, but will not be limited to these audit functions. It will also seek reports and assurances from directors and managers as appropriate, concentrating on the overarching systems of integrated governance, risk management and internal control, together with indicators of their effectiveness.

(ii) **Internal Audit**

- the Audit Committee shall ensure that there is an effective internal audit function established by management, which meets mandatory Public Sector Internal Audit Standards and provides appropriate independent assurance to the Audit Committee, Chief Executive and Board of Directors.

(iii) **External Audit**

- the Audit Committee shall consider and make recommendations to the Council of Governors in relation to the appointment, re-appointment and removal of the External Auditor, following the criteria for such matters agreed with the Council for Governors .
- the Audit Committee shall review the work and findings of the External Auditor, in line with what has been agreed with the Council of Governors, and consider the implications and management's responses to their work.

(iv) **Other Assurance Functions**

- the Audit Committee shall review the findings of other significant assurance functions, both internal and external to the organisation, and consider the implications to the governance of the organisation.
- these will include, but will not be limited to, any reviews by Monitor / NHS Improvement or Department of Health arms length bodies or regulators / inspectors (e.g., Care Quality Commission, NHS Litigation Authority, etc.), professional bodies with responsibility for the performance of staff or functions (e.g. Royal Colleges, accreditation bodies, etc.). As a Mental Health Trust the Committee will seek to take specific note of assurances relating to Mental Health Act compliance arising from the work of the Care Quality Commission.
- in addition, the Committee will review the work of other Board of Directors committees, whose work can provide relevant assurance to the Audit Committee's own scope of work. The committee will satisfy itself that its work and that of other committees is co-ordinated to avoid duplication or omission. In reviewing issues around clinical risk management, the Audit Committee will wish to satisfy itself of the assurance that can be gained from the clinical audit function.

(v) **Management**

- the Audit Committee shall request and review reports and positive assurances from directors and managers on the overall arrangements for governance, risk management and internal control.
- the Committee may also request specific reports from individual functions within the organisation (e.g. clinical audit) as may be appropriate to the overall assurance requirements.
- the Audit Committee will develop an annual workplan to cover the six standard Committee meetings per year.

(vi) **Financial Reporting**

- the Audit Committee shall review the Annual Report and Financial Statements before submission to the Board of Directors and the Council of Governors
- the Audit Committee should also ensure that the systems for financial reporting to the Board of Directors and Council of Governors, including those of budgetary control, are subject to review as to completeness and accuracy of the information provided to the Board of Directors and Council of Governors.

(vii) **Reporting**

- the minutes of Audit Committee meetings shall be formally recorded by the Trust Secretary and submitted to the Board of Directors. The Chair of the Committee shall draw to the attention of the Board of Directors any issues that require disclosure to the full Board of Directors, or require executive action.
- the Committee will report to the Board of Directors annually on its work in support of the Annual Governance Statement. The governance statement records the stewardship of the Trust to supplement the accounts. It provides a sense of how successfully the Trust has managed the challenges it faces and how vulnerable the Trust's performance is or might be. This statement pulls together position statements and evidence on governance, risk management and control. It also comments on the Trust's compliance with the registration criteria of the Care Quality Commission.

2.1.2. Where the Audit Committee considers there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters that the Committee wishes to raise, the Chairman of the Audit Committee should, in the first instance, raise the matter with the Executive Director of Finance and, if not satisfied, then raise the matter at a full meeting of the Board of Directors.

2.1.3. Exceptionally, after the matter has been formally reported to the Executive Director of Finance the matter may need to be referred to the Monitor / NHS Improvement.

2.1.4. It is the responsibility of the Executive Director of Finance to ensure an adequate Internal Audit service is provided and the Audit Committee shall be involved in the selection process when/if an Internal Audit service provider is changed.

2.2. Executive Director of Finance

2.2.1. 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) ensuring that Internal Audit is adequate and meets the Public Sector mandatory audit standards;
- (c) deciding at what stage to involve the police in cases of misappropriation and other irregularities not involving fraud or corruption;
- (d) ensuring that an annual internal audit report is prepared for the consideration of the Audit Committee and the Board of Directors. The report must cover:
 - (i) a clear opinion on the effectiveness of internal control in accordance with current assurance framework guidance issued by Monitor / NHS Improvement (or relevant advisory body) including for example compliance with control criteria and standards;
 - (ii) major internal financial control weaknesses discovered;
 - (iii) progress on the implementation of internal audit recommendations;
 - (iv) progress against plan over the previous year;
 - (v) strategic audit plan covering the coming three years;
 - (vi) a detailed plan for the coming year.
- (e) ensuring that effective links with the Anti Fraud Specialist are maintained.

2.2.2. The Executive Director of Finance or designated auditors are entitled without necessarily giving prior notice, whilst bearing in mind the efficient running of the Trust, to require and receive:

- (a) access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;
- (b) access at all reasonable times to any land, premises or Members of the Board of Directors, employee of the Trust or contractor;

- (c) the evidencing of any cash, stores or other property of the Trust under a member of the Board of Directors, an employee's or a contractors control; and
- (d) explanations concerning any matter under investigation.

2.3. Role of Internal Audit

2.3.1. Internal Audit will review, appraise and report upon:

- (a) the extent of compliance with and the financial effect of relevant established policies, plans and procedures;
- (b) the adequacy and application of financial and other related management controls;
- (c) the suitability of financial and other related management data;
- (d) the extent to which the Trust's assets and interests are accounted for and safeguarded from loss of any kind, arising from:
 - (i) fraud and other offences;
 - (ii) waste, extravagance, inefficient administration;
 - (iii) poor value for money or other causes.
- (e) Internal Audit shall also independently verify the Assurance Statements in accordance with guidance from Monitor / NHS Improvement (or relevant advisory body).

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

2.3.3. The Chief Internal Auditor will normally attend Audit Committee meetings and has a right of access to all Audit Committee members, the Chairman and Chief Executive of the Trust.

2.3.4. The Chief Internal Auditor 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 Chief Internal Auditor. The agreement shall be in writing and shall comply with the guidance on reporting contained in the NHS Foundation Trust Accounting Officer Memorandum, the NHS Foundation Trust Annual Reporting Manual, the NHS Foundation Trust Code of Governance, the Audit Code for NHS Foundation Trust and any subsequent guidance issued by Monitor / NHS Improvement (or other relevant advisory body). The reporting system shall be reviewed at least every three years.

2.3.5. Managers in receipt of audit reports referred to them have a duty to take appropriate remedial action within agreed timescales specified in the report. The Executive Director of Finance shall identify a formal review process to monitor the extent of compliance with audit recommendations. Where appropriate remedial action has failed to take place within a reasonable period, the matter shall be reported to the Audit Committee.

2.4. External Audit

2.4.1. The External Auditor is appointed in accordance with the Constitution, subject to approval by the Council of Governors, and paid for by the Trust. The Audit Committee must ensure a cost-efficient service and ensure compliance with guidance by Monitor / NHS Improvement (or other relevant advisory body).

2.5. Fraud and Corruption

2.5.1. In line with their responsibilities, the Chief Executive and Executive Director of Finance shall monitor and ensure compliance with directions issued by the Secretary of State for Health, Monitor / NHS Improvement or NHS Protect on fraud and corruption.

2.5.2. The Trust shall nominate a suitable person to carry out the duties of the Anti Fraud Specialist as specified by the NHS Protect Fraud and Corruption Manual and guidance.

2.5.3. The Anti Fraud Specialist shall report to the Executive Director of Finance and shall work with staff in the Counter Fraud and Security Management Service division of the NHS Business Services Authority (NHS Protect) and the Regional Counter Fraud and Security Management Services in accordance with the NHS Protect Fraud and Corruption Manual.

2.5.4. The Anti Fraud Specialist will provide a written report, at least annually, on counter fraud work within the Trust.

2.6. Security Management

2.6.1. In line with their responsibilities, the Chief Executive will monitor and ensure compliance with Directions issued by the Secretary of State for Health on NHS security management.

2.6.2. The Trust shall nominate a suitable person(s) to carry out the duties of the Local Security Management Specialist (LSMS) as specified by the Secretary of State for Health guidance on NHS security management.

2.6.3. The Trust shall nominate a Non-Officer Board of Directors Member to be responsible to the Board of Directors for NHS security management.

2.6.4. The Chief Executive has overall responsibility for controlling and coordinating security. However, key tasks are delegated to the Director of Security and the appointed Local Security Management Specialist (LSMS).

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

3.1. Preparation and Approval of Plans and Budgets

- 3.1.1. The Chief Executive will ensure the compilation and submission to the Board of Directors of a Strategic Direction Document that encompasses an annual business plan and takes into account financial targets and forecast limits of available resources. The annual business plan will contain:
- (a) a statement of the significant assumptions on which the plan is based;
 - (b) details of major changes in workload, delivery of services or resources required to achieve the plan.
- 3.1.2. Prior to the start of the financial year the Executive Director of Finance will, on behalf of the Chief Executive, prepare and submit budgets for approval by the Board of Directors. Such budgets will:
- (a) be in accordance with the aims and objectives set out in the Integrated Business Plan;
 - (b) accord with workload and manpower plans;
 - (c) be produced following discussion with appropriate budget holders;
 - (d) be prepared within the limits of available funds;
 - (e) identify potential risks;
 - (f) enable the Trust to meet its statutory financial duties.
- 3.1.3. The Executive Director of Finance shall monitor financial performance against budget and plan, periodically review them, and report to the Board of Directors. Detailed financial reporting will be via the Performance, Investment and Finance Committee which shall undertake detailed scrutiny on behalf of the Board of Directors.
- 3.1.4. All budget holders must provide information as and when required by the Executive Director of Finance to enable budgets to be compiled.
- 3.1.5. All budget holders will sign to accept their allocated budgets at the commencement of each financial year.
- 3.1.6. The Executive Director of Finance has a responsibility to ensure that adequate training is delivered on an on-going basis to budget holders to help them manage budgets successfully.
- 3.1.7. All budget holders have a duty to monitor their allocated budgets and to manage them effectively. It is the duty of individual budget holders to seek further training, to assist in managing their allocated budgets, if required.

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, including pooled budget arrangements under section 25 of the National Health Service Act 2006. This delegation must be in writing and be accompanied by a clear definition of:
- (a) the amount of the budget;
 - (b) the purpose(s) of each budget heading;
 - (c) individual responsibilities;
 - (d) authority to exercise virement;
 - (e) achievement of planned levels of service;
 - (f) the provision of regular reports.
- 3.2.2. The Chief Executive and delegated budget holders must not exceed the budgetary total and / or virement limits set by the Board of Directors.
- 3.2.3. Any budgeted funds not required for their designated purpose(s) revert to the immediate control of the Chief Executive, subject to any authorised use of virement.
- 3.2.4. Non-recurring budgets should not be used to finance recurring expenditure without the authority in writing of the Chief Executive, as advised by the 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) financial reports to the Board of Directors in a form approved by the Board of Directors containing:
 - (i) income and expenditure to date showing trends and forecast year-end position;
 - (ii) movements in working capital;
 - (iii) movements in cash and capital;
 - (iv) capital project spend and projected outturn against plan;
 - (v) explanations of any material variances from plan;
 - (vi) details of any corrective action where necessary and the Chief Executive's and / or 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 holder, covering the areas for which they are responsible;
- (c) investigation and reporting of variances from financial, workload and manpower budgets;
- (d) monitoring of management action to correct variances; and
- (e) arrangements for the authorisation of budget transfers.

3.3.2. Each Budget Holder is responsible for ensuring that:

- (a) any likely overspending or reduction of income which cannot be met by virement is not incurred without the prior consent of the Board of Directors;
- (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 or Executive Director of Finance other than those provided for within the available recurrent resources and the manpower establishment as approved by the Board of Directors (see *Standing Financial Instructions* paragraph 9.2 – Funded Establishment).

3.3.3. The Chief Executive is responsible for identifying and implementing cost improvements and income generation initiatives in accordance with the requirements of the Integrated Business Plan and the Trust's Statutory Financial Duties.

3.4. Capital Expenditure

3.4.1. The general rules applying to delegation and reporting shall also apply to capital expenditure. See also *Standing Financial Instructions* paragraph 13 (Capital investment, private financing, fixed asset registers and security of assets).

3.5. Monitoring Returns

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

4. ANNUAL ACCOUNTS AND REPORTS

- 4.1. The Executive Director of Finance, on behalf of the Trust, will:
- (a) prepare financial returns in accordance with the accounting policies and guidance given by Monitor / NHS Improvement, the Department of Health, HM Treasury, the Trust's accounting policies, and generally accepted accounting practice;
 - (b) prepare and submit annual financial reports to the Monitor / NHS Improvement certified in accordance with current guidelines;
 - (c) submit financial returns to the Monitor / NHS Improvement for each financial year in accordance with the timetable prescribed by Monitor / NHS Improvement.
- 4.2. In accordance with the Constitution, the Trust's annual accounts will be prepared by the Executive Director of Finance and must be audited by an auditor appointed by the Council of Governors and presented to a meeting of the Council of Governors (as defined in the Constitution. The Trust's audited annual accounts must be presented to a public meeting and made available to the public.
- 4.3. In accordance with the Constitution, guidelines on local accountability and Monitor's / NHS Improvement's NHS Foundation Trust Annual Reporting Manual, the Trust must publish an annual report and sent it to Monitor / NHS Improvement and Parliament.
- 4.4. In accordance with section 44 of the Constitution, the Trust shall give information prepared by the Board of Directors with regard to the Council of Governors views on its forward planning for each financial year to Monitor / NHS Improvement.

5. BANK ACCOUNTS

5.1. General

- 5.1.1. The Executive Director of Finance is responsible for managing the Trust's banking arrangements and for advising the Trust on the provision of banking services and operation of accounts. This advice will take into account guidance issued from time to time by the Department of Health. In line with '*Cash Management in the NHS*', Trusts should minimise the use of commercial bank accounts and use Government Banking Services for all banking requirements.
- 5.1.2. The Board of Directors shall approve the banking arrangements.

5.2. Bank

- 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 non-exchequer funds;
 - (c) ensuring payments made from bank or GBS accounts do not exceed the amount credited to the account except where arrangements have been made;
 - (d) reporting to the Board of Directors all arrangements made with the Trust's bankers for accounts to be overdrawn.
 - (e) monitoring compliance with HM Treasury guidance and any guidance issue by Monitor / NHS improvement or any other relevant guidance on the level of cleared funds.

5.3. Banking Procedures

- 5.3.1. The Executive Director of Finance will prepare detailed instructions on the operation of bank and GBS accounts which must include:
- (a) the conditions under which each bank account is to be operated, the limit to be applied at any overdraft;
 - (b) those authorised to sign cheques or other orders drawn on the Trust's accounts.
- 5.3.2. The Executive Director of Finance must advise the Trust's bankers in writing of the conditions under which each account will be operated.

5.4. Tendering and Review

- 5.4.1. The Executive Director of Finance will review the commercial banking arrangements of the Trust at regular intervals to ensure they reflect best practice and represent best value for money by periodically seeking competitive tenders for the Trust's commercial banking business.
- 5.4.2. Competitive tenders should be sought at least every five years. The results of the tendering exercise should be reported to the Board of Directors. This review is not necessary for bank accounts prescribed by the Government Banking Services (GBS).

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

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. All such systems shall incorporate in full the principles of internal check and separation of duties.
- 6.1.3. The Executive Director of Finance is responsible for the prompt banking of all monies received.

6.2. Fees and Charges

- 6.2.1. The Trust shall have regard to the lasting Costing Guidance issued by Monitor in setting prices for NHS service agreements and any later version of such guidance that may be published by Monitor from time to time.
- 6.2.2. Subject to *Standing Financial Instructions* paragraph 8.1.4 below, 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 valuation shall be taken as necessary. Where sponsorship income (including items in kind such as subsidised goods or loans of equipment) is considered the guidance in the Department of Health's *Commercial Sponsorship – Ethical standards in the NHS* shall be followed.
- 6.2.3. All employees must inform the Executive Director of Finance promptly of money due arising from transactions which they initiate / deal with, including all contracts, leases, tenancy agreements, private patient undertakings and other transactions.

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, following robust credit control activity, should be dealt with in accordance with the losses procedures.
- 6.3.3. Overpayments should be prevented whenever possible. However, recovery should be initiated immediately once an overpayment has been detected.

6.4. Security of Cash, Cheques and other Negotiable Instruments

- 6.4.1. The Executive Director of Finance is responsible for:
 - (a) approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable;
 - (b) ordering and securely controlling any such stationery;

- (c) the provision of adequate facilities and systems for employees whose duties include collecting and holding cash, including the provision of safes or lockable cash boxes, the procedures for keys, and for coin operated machines;
 - (d) prescribing systems and procedures for handling cash and negotiable securities on behalf of the Trust.
- 6.4.2. Official money shall not under any circumstances be used for the encashment of private cheques or IOUs.
- 6.4.3. All cheques, postal orders, cash and other monetary items, shall be banked promptly and intact. Disbursements shall not be made from cash received, except under arrangements approved in advance by the Executive Director of Finance.
- 6.4.4. The holders of safe keys shall not accept unofficial funds for depositing in their safes unless such deposits are in special sealed envelopes or locked containers. It shall be made clear to the depositors that the Trust is not to be held liable for any loss, and written indemnities must be obtained from the organisation or individuals absolving the Trust from responsibility for any loss.
- 6.4.5. Any loss or shortfall of cash, cheques or other negotiable instruments, however occasioned, shall be reported immediately to the Executive Director of Finance. Where there is prima facie evidence of fraud or corruption this should follow the form of the Trust's Anti Fraud, Corruption & Bribery Policy & Response Plan and the guidance provided by the Anti Fraud Specialist. Where there is no evidence of fraud or corruption the loss should be dealt with in line with the Trust's Losses and Special Payments Procedures.
- 6.4.6. The Money Laundering Regulations 2007¹ require that the Trust does not, under any circumstances, accept exchequer cash payments in excess of £10,000 in respect of any single transaction or several transactions which appear to be linked. Any attempts by an individual to effect payment above this amount should be notified immediately to the Executive Director of Finance. Furthermore, any patient or service user depositing in excess of £500 for safekeeping with the Trust will be notified to the Executive Director of Finance in his capacity as Corporate Appointee and Bailee.

¹ Statutory Instrument 2007 No. 2157

7. TENDERING AND CONTRACTING PROCEDURE

7.1. Duty to comply with Standing Orders and Standing Financial Instructions

7.1.1. The procedures to be followed by the Trust in relation to all contract opportunities with the Trust and for awarding all contracts with the Trust shall comply with the Standing Orders (which can be found in the Constitution) and Standing Financial Instructions.

7.1.2. This section of the Standing Financial Instructions is structured in the following sections:

- (a) this section: Legislation and Policy Framework, referring to the main requirements of law and policy. This section is not definitive and other guidance may also be applicable to any decision or procurement (*Standing Financial Instructions* paragraphs 7.1 to 7.3 inclusive);
- (b) the decision to tender or competitively quote and exceptions to the requirements (*Standing Financial Instructions* paragraph 7.4);
- (c) Tendering Procedure, where a decision is made to tender pursuant to *Standing Financial Instructions* paragraph 7.4 and *Standing Financial Instructions* paragraph 7.5;
- (d) quotations where no tender process (*Standing Financial Instructions* paragraph 7.6);
- (e) evaluation of tenders and quotations (*Standing Financial Instructions* paragraph 7.7);
- (f) award of contracts (*Standing Financial Instructions* paragraph 7.8);
- (g) Form of Contract (*Standing Financial Instructions* paragraph 7.9); and
- (h) Specific Requirements (*Standing Financial Instructions* paragraph 7.10).

7.2. Legislation Governing Public Procurement

7.2.1. The Trust shall comply with the Public Contracts Regulations 2015 (the “2015 Regulations”) and, to the extent that they continue to apply, the Public Contracts Regulations 2006² (the “2006 Regulations”) any European Union (EU) Directives relating to EU procurement law having direct effect in England (the “Directives”) and any other duties derived from EU Treaty (“Treaty Obligations”) and any other duties derived from the UK common law (“Common Law Duties”) and where applicable The National Health Service (Procurement, Patient Choice and Competition)(No.2) Regulations 2013 (the 2015 Regulations, the 2006 Regulations, the Directives,

² The 2006 Regulations will continue to apply to processes started and call offs from framework agreements concluded before 26th February 2015. For the avoidance of any doubt this will include processes started after 26th February 2015 if the opportunity has been advertised at the Official Journal of the European Union (OJEU) prior to that date or the Trust has sought expressions of interest, offers in any way, i.e., via direct contact with economic operators or utilizing some form of advert

Treaty Obligations and Common Law Duties together are referred to elsewhere in those Standing Financial Instructions as “Procurement Legislation”). The Procurement Legislation as from time to time amended shall have effect as if incorporated in these Standing Orders and Standing Financial Instructions.

- 7.2.2. The Trust should consider obtaining support from the NHS Supply Chain and/or the Cabinet Office where relevant and/or any suitably qualified professional advisor (including where appropriate legal advisors to ensure compliance with Procurement Legislation when engaging in tendering procedures).
- 7.2.3. The Trust shall consider the application of any applicable duty to consult or engage the public or any relevant Overview and Scrutiny Committee of a Local Authority prior to commencing any procurement process for a contract opportunity.
- 7.2.4. When procuring services, the Trust should have regard to the requirements of the Public Services (Social Value) Act 2012 and its supporting regulations and guidance, as amended.

7.3. Guidance on Procurement and Commissioning

- 7.3.1. The Trust should have regard to all relevant guidance issued in relation to the conduct of procurement practice, including but not limited to:
 - (a) the Department of Health’s “*Capital Investment Manual*” and “*Part A and Part B of the Health Building Note 00-08*” in respect of capital investment and estate and property transactions save where either has been superseded by later published guidance;
 - (b) policies and procedures in place for the control of all tendering activity carried out through Reverse eAuctions. For further guidance on Reverse eAuctions refer to www.gov.uk; and
 - (c) in the case of management consultancy contracts the Department of Health guidance “*The Procurement and Management of Consultants within the NHS*” or any successor guidance issued by the Department of Health;

or any successor to such guidance issued from time to time.

7.4. Decision to Tender and Exceptions to requirement to Tender

7.4.1. *Presumption to Tender*

- (a) Where:
 - (i) a contract opportunity is required to be tendered under the 2015 Regulations or the 2006 Regulations (i.e. the contract opportunity is governed by the 2015 Regulations or the 2006 Regulations and the value of the contract opportunity as calculated pursuant to the 2015 Regulations or the 2006 Regulations exceeds the relevant financial threshold for the requirement to run a formal tender process)

(for the avoidance of doubt, where it is proposed that an organisation will receive a percentage of any savings that it generates under a contract, rather than or in addition to being paid directly by the Trust, the value of the savings that it is anticipated that the organisation will receive should be taken into account in calculating the value of that contract opportunity), or

- (ii) for any new processes which are covered by the 2006 Regulations, if the contract would pass the Cross Border Test. The Cross Border Test is passed (subject to any subsequent judicial precedent in the UK Courts or the European Court of Justice) if the contract opportunity under consideration would be (whatever the value of the contract and whether or not the contract opportunity is a Part B Service under the 2006 Regulations, or falls outside the requirement to tender under the 2015 Regulations) of certain interest to any body located in a member state of the European Union other than the United Kingdom, or
 - (iii) a contract opportunity for services that fall within the Light Touch Regime where such services are above the relevant financial threshold for the application of the Light Touch Regime. There is a presumption under the 2015 Regulations that Schedule 3 Service Contracts which are below the application threshold will not be of the cross border interest;
- (b) then subject to *Standing Financial Instructions* paragraph 7.4.3 the Trust shall ensure that contract opportunities with the Trust are advertised in accordance with *Standing Financial Instructions* paragraph 7.5.3 and where more than one response is received that competitive tenders are invited in accordance with *Standing Financial Instructions* paragraph 7.5.4 for:
- (i) the supply of goods, materials and manufactured articles;
 - (ii) the rendering of services including all forms of management consultancy services; and
 - (iii) the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens).

7.4.2. Commissioning Schedule 3 Services including Health Care Services: Decision to Tender

- (a) For services classified as Schedule 3 Services under the 2015 Regulations, a requirement to advertise arises by virtue of *Standing Financial Instructions* paragraph 7.4.1(a)(i) above, as long as the contract value exceeds the applicable threshold.
- (b) For services classified as Part B Services under the 2006 Regulations, no requirement to advertise arises by virtue of *Standing Financial Instructions* paragraph 7.4.1(a)(i) above but may do under *Standing Financial Instructions* paragraph 7.4.1(a)(ii) and each contract opportunity should be assessed

against the Cross Border Test. Any contract which does not meet the Cross Border Test should be dealt with under *Standing Financial Instructions* paragraph 7.6.

7.4.3. *Exceptions and instances where formal tendering or a competitive quotation need not be applied*

(a) Where a contract opportunity is required to be tendered under *Standing Financial Instructions* paragraphs 7.4.1(a) or 7.4.2 or a Competitive Quotation under 7.6.1 (a) such contract opportunities need not be advertised and formal procedures need not be applied where:

(i) the estimated expenditure exceeds or is reasonably expected to exceed £16,000 but is not reasonably expected to exceed £49,999 (excluding VAT) but is not reasonably expected to exceed £181,302 (excluding VAT)

For the avoidance of doubt, where it is proposed that an organisation will receive a percentage of any savings that it generates under a contract, rather than or in addition to being paid directly by the Trust, the value of the savings that it is anticipated that the organisation will receive should be taken into account in calculating the “estimated expenditure” for the purposes of *Standing Financial Instructions* paragraph 7.4.3(a)(i);

- (ii) any disposal falls within *Standing Financial Instructions* paragraph 7.10.1 (Disposals) and/or within *Standing Financial Instructions* paragraph 15.1.3 (Disposals and Condemnations – Procedures);
- (iii) the requirement can be met under an existing contract without infringing Procurement Legislation;
- (iv) the Trust is entitled to call off from a Framework Agreement and the requirements of *Standing Financial Instructions* paragraph 7.4.6 (Use of Framework Agreements) have been followed;
- (v) a consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the Trust; or
- (vi) an exception permitting the use of the negotiated procedure without notice validly applies under regulation 32 of the 2015 Regulations and regulation 14 of the 2006 Regulations (as defined at *Standing Financial Instructions* paragraph 7.2.1 above).

(b) **Formal tendering or a competitive quotation procedure may be waived in the following circumstances:**

- (i) in very exceptional circumstances where the Chief Executive decides that formal tendering procedures or a competitive quotation would not be practicable or the estimated expenditure or income would not warrant formal tendering procedures, and the circumstances are detailed in an appropriate Trust record (see *Standing Financial Instructions Annex 1– Application to Waiver Competitive Quotation / Tendering Procedure*);
- (ii) where the timescale genuinely precludes competitive tendering or a competitive quotation for reasons of extreme urgency brought about by events unforeseeable by the Trust and not attributable to the Trust and the time limits for other procedures in the 2015 Regulations cannot be complied with. Failure to plan the work properly is not a justification for waiving the requirement to tender;
- (iii) where the works, services or supply required are available from only one source for technical or artistic reasons or for reasons connected with the protection of exclusive rights where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement;
- (iv) when the goods required by the Trust are a partial replacement for, or in addition to, existing goods and to obtain the goods from a supplier other than the supplier who supplied the existing goods would oblige the Trust to acquire goods with different technical characteristics and this would result in:
 - incompatibility with the existing goods, or
 - disproportionate technical difficulty in the operation and maintenance of the existing goods,but no such contract may be entered in for a duration of more than three years;
- (v) when new works or services consisting of a repetition of similar works or services entrusted to the economic operator to which the Trust awarded the original contract following a compliant tender process are required. The initial tender process must have indicated the extent of the possible additional works and the conditions under which they would be awarded. No such contract may be entered into for more than three years;

(vi) when works or services required by the Trust are additional to works or services already contracted for but for unforeseen circumstances such additional works or services have become necessary and that such additional works or services:

- cannot for technical or economic reasons be carried out separately from the works or services under the original contract without major inconvenience to the Trust, or
- can be carried out or provided separately from the works or services under the original contract but are strictly necessary to the latest stages of performance of the original contract,

provided that the value of such additional works or services does not exceed 50% of the value of the original contract.

7.4.4. *Monitoring and Audit of Decision to Tender*

(a) The waiving of competitive tendering or competitive quotation procedures should not be used with the object of avoiding competition or solely for administrative convenience or subject to *Standing Financial Instructions* paragraphs 7.4.3 (b)(ii) to (b)(v) to award further work to a provider originally appointed through a competitive procedure. Where it is decided that competitive tendering or a competitive quotation need not be applied or should be waived, the fact of the waiver and the reasons should be documented and recorded in an appropriate Trust record and reported to the Audit Committee at least once a year.

7.4.5. *Contracts which subsequently breach thresholds after original approval not to tender*

(a) Contract opportunities estimated to be below the financial limits set in *Standing Financial Instructions* paragraph 7 or below the threshold for the application of the requirement to tender under the Procurement Legislation, for which formal tendering procedures are not used, but which subsequently prove to have a value above such limits shall be reported to the Audit Committee, and be recorded in an appropriate Trust record.

7.4.6. *Use of Framework Agreements*

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

(i) the framework agreement was procured on its behalf. The Trust should satisfy itself that the original procurement process included the Trust within its scope;

- (ii) the framework agreement includes the Trust's requirement within its scope. The Trust should satisfy itself that this is the case;
- (iii) where the framework agreement is a multi-operator framework agreement, the process for the selection of providers to be awarded call-off contracts under the framework agreement is followed; and
- (iv) the call-off contract entered into with the provider contains the contractual terms set out by the framework agreement.

7.4.7. *In-House Services: Decision to Tender Services*

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

7.4.8. *Contracts Below the Relevant Financial Threshold*

- (a) Contract opportunities for contracts (excluding Schedule 3 Service Contracts), which fall below the relevant financial threshold, should be dealt with under *Standing Financial Instructions* paragraph 7.6.

7.5. Tendering Procedure

7.5.1. *Equality of Treatment*

- (a) The Trust shall ensure that no sector of any market (public, private, third sector/social enterprise) is given an unfair advantage in the design or conduct of any tender process. Save that the Trust may exercise the provisions within the 2015 Regulations (see regulation 77) that allows it to reserve certain contracts for certain services to qualifying organisations as long as such contract awards comply with the requirements of regulation 77.

7.5.2. *Non-Discrimination*

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

7.5.3. **Advertisement of Contract Opportunities**

- (a) Where advertisement of a contract opportunity is required under *Standing Financial Instructions* paragraph 7.4.1 (Presumption to Tender) then:
 - (i) where a contract opportunity falls within the 2015 Regulations and / or the 2006 Regulations and a process compliant with the 2015 Regulations and / or the 2006 Regulations is required, an *Official Journal of the European Union* (OJEU) Notice should be utilised; or
 - (ii) where a contract opportunity does not fall within the general thresholds contained within the 2015 Regulations and / or the 2006 Regulations the Trust shall utilise, where considered appropriate, a form of advertising for such contract opportunity that is sufficient to enable potential providers (including provider in member states of the European Union other than the UK) to access appropriate information about the contract opportunity so as to be in a position to express an interest. The Trust should also consider its duty to advertise.

7.5.4. **Choice of Procedure**

- (a) Where a contract opportunity falls within the 2015 Regulations and / or the 2006 Regulations and a process compliant with the Regulations is required then the Trust shall utilise an available tender procedure under the 2015 Regulations and / or the 2006 Regulations as appropriate
- (b) In all other cases the Trust shall utilise a tender procedure proportionate to the value, complexity and risk of the contract opportunity and shall ensure that invitations to tender are sent to a sufficient number of providers to provide fair and adequate competition.
- (c) When exercising its obligations under *Standing Financial Instructions* paragraphs 7.5.4(a) and (b) above, and to the extent that such a process complies with the requirements set out in this *Standing Financial Instructions* paragraph 7, the Trust may use an e-tendering process (including the use of reverse e-auctions) for the tendering of contract opportunities.

7.5.5. **Invitation to tender**

- (a) All invitations to tender shall state the date and time as being the latest time for the receipt of tenders.
- (b) All invitations to tender shall state that no tender will be accepted unless:
 - (i) **General Goods and Services (including Estates):**
 - usually tenders for all types of goods and services, including estates, are to be submitted via the Trust's **e-tendering portal**, unless the Trust, on the advice of the Head of Procurement, elects to utilise a Paper-based Tender Submission process.

(ii) ***Paper-based Tender Submissions:***

- submitted in a plain sealed package or envelope bearing a pre-printed label supplied by the Trust (or the word "tender" followed by the subject to which it related and the latest date and time for the receipt of such tender) addressed to the Chief Executive or nominated Manager (see also section A35(b) of Table A (Delegated Authority) in the Trust's *Scheme of Reservation and Delegation of Powers* for further guidance);
 - tender envelopes / packages bear no names or marks indicating the sender. Where courier or postal services are used to deliver tender documents such service must not identify the sender on the envelope or on any receipt so required by such services.
- (c) Every invitation to tender must require each bidder to give a written undertaking, not to engage in collusive tendering or other restrictive practice and not to engage in canvassing the Trust, its employees or officers concerning the contract opportunity tendered.

7.5.6. ***Receipt and safe custody of tenders***

(a) ***E-tendering Portal Submissions:***

- (i) All receipted tenders are delivered into a vaulted area within the Trust e-tendering portal and cannot be accessed until after the date/time expiry. Password control for access is available from and managed by the Trust's Head of Procurement.

(b) ***Paper-based Tender Submissions:***

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

7.5.7. ***Opening tenders and Register of tenders***

(a) ***E-tendering Portal Submissions***

- (i) As soon as the expiry date/time has passed, access to submitted tenders is only available in the vaulted area by controlled access and password.

- (ii) All submitted tenders as marked as “accepted” and download and/or saved by the Buyer.
 - (iii) All activity on the e-tendering portal is fully auditable.
- (b) ***Paper-based Tender Submissions:***
- (i) As soon as practicable after the date and time stated as being the latest time for the receipt of tenders, they shall be opened by two senior officers/managers designated by the Chief Executive (who may not be from the Originating Department who have commissioned or sponsored the tender).
 - (ii) Two senior managers are required to be present for the opening of tenders. The rules relating to the opening of tenders will need to be read in conjunction with any delegated authority set out in the Trust’s *Scheme of Reservation and Delegation of Powers*.
 - (iii) Subject to *Standing Financial Instructions* paragraph 7.5.10 (Accountability where in-house bid) the involvement of finance staff in the Originating Department’s preparation of an invitation to tender will not preclude the Executive Director of Finance, or any approved senior manager from the Finance Department, from serving as one of the two senior managers to open tenders. The Trust Secretary will count as a Director for the purposes of opening tenders.
 - (iv) All senior managers will be authorised to open tenders. One of the senior officers should not be from the originating department.
 - (v) Every tender received shall be marked with the date of opening and initialled by those present at the opening.
 - (vi) A register shall be maintained by the Chief Executive, or a person authorised by him, to show for each competitive invitation to tender despatched:
 - the name of all organisations/individuals invited to tender;
 - the names of all organisations/individuals from which tenders have been received;
 - the date the tenders were received and opened;
 - the persons present at the opening;
 - the price shown on each tender; and
 - a note where price alterations have been made on the tender and suitably initialled.

- (vii) Each entry to this register shall be signed by those present at the opening of the relevant tenders.
- (viii) A note shall be made in the register if any one tender price has had so many alterations that it cannot be readily read or understood.

7.5.8. **Admissibility**

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

7.5.9. **Late tenders**

- (a) The provision for considering whether or not a tender received after the due date and time can be considered shall only exercised where a paper-based tender submission process is being used (i.e., not when using the e-tendering portal) in the following circumstances:
 - (i) paper-based tender submissions received after the due date and time, but prior to the opening of the other tenders, may be considered only if the Chief Executive and / or the Executive Director of Finance decide that there are exceptional circumstances (i.e., despatched in good time but delayed through no fault of the tenderer).
 - (ii) only in the most exceptional circumstances will a paper-based tender submission be considered which is received after the opening of the other tenders and only then if the tenders that have been duly opened have not left the custody of the Chief Executive or their nominated officer or if the process of evaluation and adjudication has not started. Again, acceptance of such late tenders may only be considered if the Chief Executive and / or the Executive Director of Finance decides that there are exceptional circumstances (i.e., despatched in good time but delayed through no fault of the tenderer).
- (b) While decisions as to the admissibility of late, incomplete or amended paper-based tender submissions are under consideration, the tender documents shall be kept strictly confidential, recorded, and held in safe custody by the Chief Executive or their nominated officer.
- (c) On no account shall any of the paper-based tender submissions received for the tender exercise be passed to officers involved in the evaluation and adjudication process until the Chief Executive and / or the Executive Director of Finance has determined whether the tender received after the deadline will be accepted

- (d) Should it be determined that a late tender is ACCEPTED, the accepted paper-based tender submission will be opened in accordance with the relevant paper-based process and then passed to the officers involved in the evaluation and adjudication process together with all the other tender(s) received.
- (e) Should it be determined that a late tender is NOT accepted, late paper-based tender submissions will be rejected. Tender envelopes will be opened, to ascertain the name and address of the tenderer, the tender promptly returned and the tenderer notified accordingly.
- (f) All such actions, together with the reason why a tender had been accepted or rejected in the context of paragraph 7.5.9, will be recorded in accordance with *Standing Financial Instructions* paragraph 7.5.7 (b)(vi). Acceptance of late tenders will be reported to the Audit Committee
- (g) The Trust shall have policies and procedures in place for the control of all tendering activity carried out through paper-based systems, dynamic purchasing systems and electronic auctions if such mechanisms are to be utilised by the Trust for tendering any contract opportunity. For further guidance on dynamic purchasing systems or electronic auctions refer to www.gov.uk.

7.5.10. **Accountability where in-house bid**

- (a) In all cases where the Board of Directors determines that in-house services should be subject to competitive tendering the following groups shall be set up:
 - (i) Specification group, comprising the Chief Executive or nominated officer/s and a specialist officer whose function shall be to draw up the specification of the service to be tendered.
 - (ii) In-house tender group, comprising a nominee of the Chief Executive and technical support to draw up and submit the in-house tender submission.
 - (iii) Evaluation group, comprising normally a specialist officer, a procurement or commissioning officer and an Executive Director of Finance representative whose function is to shortlist expressions of interest received and evaluate tenders received. For services having a likely annual expenditure exceeding £250,000, a Non-Executive Director should be a member of the evaluation team.
- (b) No officer or employee of the Trust directly engaged or responsible for the provision of the in-house service subject to competitive tendering may be a member of any of the specification or evaluation group established under *Standing Financial Instructions* paragraph 7.5.10(a) but the specification group may consult with and take into account information received from such officers or employees in drawing up the Trust's specification subject at all

times to observing the duty of non-discrimination at *Standing Financial Instructions* paragraph 7.5.2. No member of the in-house tender group may participate in the evaluation of tenders.

- (c) The evaluation group shall make recommendations to the Board of Directors.

7.6. Quotations: Competitive and non-competitive

7.6.1. Requirement to obtain competitive quotations

- (a) Subject to *Standing Financial Instructions* paragraphs 7.6.1(b), (c) and (d) competitive quotations are required for all contract opportunities where formal tendering procedures are not adopted and where the intended expenditure or income exceeds, or is reasonably expected to exceed £16,000 but not exceed £49,999 (excluding VAT) (see paragraph B1 of Table B of the Trust's *Scheme of Reservation and Delegation of Powers*).

For the avoidance of doubt, where it is proposed that an organisation will receive a percentage of any savings that it generates under a contract, rather than or in addition to being paid directly by the Trust, the value of the savings that it is anticipated that the organisation will receive should be taken into account in calculating the "intended expenditure" for the purposes of this *Standing Financial Instructions* paragraph 7.6.1(a).

- (b) Competitive quotations are not required where a contract opportunity need not be advertised and tendered under *Standing Financial Instructions* paragraphs 7.4.3(a)(ii) to (a)(vi) inclusive.
- (c) Competitive quotations are not required where the requirement to advertise and tender a contract opportunity has been waived under *Standing Financial Instructions* paragraphs 7.4.3(b)(i) to (b)(vi).
- (d) Competitive quotations are not required where a contract opportunity is for a Part B Service that does not pass the Cross Border Test or a below threshold Schedule 3 Service. Nothing in these *Standing Financial Instructions* shall prevent the Trust from seeking competitive quotations should it wish to do so.

7.6.2. Competitive Quotations - Where competitive quotations are required under *Standing Financial Instructions* paragraph 7.6.1:

- (a) quotations should be obtained from at least three firms / individuals based on specifications or terms of reference prepared by, or on behalf of, the Trust.
- (b) quotations should be obtained in writing unless the Chief Executive or nominated officer determines that it is impractical to do so in which case quotations may be obtained by telephone. Confirmation of telephone quotations in writing should be obtained as soon as possible and the reasons why the telephone quotation was obtained should be set out in an appropriate Trust record.

- (c) all quotations should be subject to compliance with the provisions of the Freedom of Information Act 2000, be kept as confidential and should be retained for eighteen months from the date of receipt for inspection.
- (d) the Chief Executive or his nominated officer (who shall not be from the Originating Department) should evaluate each quotation received applying evaluation criteria in accordance with *Standing Financial Instructions* paragraph 7.7.2 (Choice of Evaluation Methodology) and select the quote which gives the best value.

7.6.3. ***Non-Competitive Quotations***

- (a) Subject to *Standing Financial Instructions* paragraph 7.6.3(b) below non-competitive quotations in writing must be obtained for any contract opportunity where formal tendering procedures are not adopted and where competitive quotations are not required under *Standing Financial Instructions* paragraph 7.6.1 (Requirement to obtain competitive quotations).
- (b) Where competitive tendering or a competitive quotation is not required the Trust shall use the NHS Supply Chain for procurement of all goods unless the Chief Executive or nominated officers deem it inappropriate. The decision to use alternative sources must be documented in an appropriate Trust record.

7.6.4. ***Quotations to be within Financial Limits***

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

7.7. **Evaluation of Tenders and Quotations**

7.7.1. ***Overriding duty to achieve best value***

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

7.7.2. ***Choice of Evaluation Methodology***

The Trust must, for each contract opportunity which is subject to a tender or a competitive quotation, choose to adopt evaluation criteria based on the most economically advantageous tender, based on criteria linked to the subject matter of the contract opportunity including, but not limited to, some or all of:

- (a) quality;
- (b) price;
- (c) technical merit;
- (d) aesthetic and functional characteristics;
- (e) innovative characteristics;

- (f) qualification and experience of staff assigned to perform the contract (when this can have significant impact on the level of performance of the contract);
- (g) environmental characteristics;
- (h) sustainability;
- (i) good corporate citizenship;
- (j) running costs;
- (k) cost effectiveness;
- (l) after sales service;
- (m) technical assistance;
- (n) delivery date;
- (o) delivery period; and/or
- (p) period of completion

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

7.8. Award of Contracts

7.8.1. *Acceptance of formal tenders*

- (a) Any discussions with a tenderer which are deemed necessary to clarify technical aspects of his tender before the award of a contract will not disqualify the tender.
- (b) Incomplete tenders (i.e. those from which information necessary for the adjudication of the tender is missing) and amended tenders (i.e. those amended by the tenderer upon his own initiative either orally or in writing after the due time for receipt) should be dealt with in the same way as late tenders unless the tender documents expressly prevent any concessions being made (see *Standing Financial Instructions* paragraph 7.5.9 above).
- (c) Where the examination of tenders reveals errors which would affect the tender figure, the tenderer may be given details of such errors and afforded the opportunity of confirming or withdrawing his offer.
- (d) No tender shall be accepted by the Trust which will commit expenditure in excess of that which has been allocated by the Trust except with the authorisation of the Chief Executive.

- (e) No tender shall be accepted by the Trust which is obtained contrary to these Standing Financial Instructions except with the authorisation of the Chief Executive or Executive Director of Finance.
- (f) All tenders should be subject to compliance with the provisions of the Freedom of Information Act 2000, be kept confidential and should be retained as follows:
 - (i) unsuccessful tenders: 6 years from the date set for the receipt of tenders for inspection;
 - (ii) successful tenders: tender period plus a 6 year limitation period.

7.8.2. *Authorisation of Tenders and Competitive Quotations*

- (a) Providing all the requirements set out in these Standing Financial Instructions have been fully complied with, formal authorisation and awarding of a contract may be decided in accordance with the approved delegated financial limits set out in Table B of the *Scheme of Reservation and Delegation*.
- (b) These levels of authorisation may be varied or changed by the Trust.
- (c) Formal authorisation must be put in writing. In the case of authorisation by the Board of Directors this shall be recorded in its minutes.

7.8.3. *Tender reports to the Board of Directors*

- (a) Reports to the Board of Directors will be made on an exceptional circumstances basis only.

7.9. Form of Contract

7.9.1. *Form of contract: General*

- (a) Subject to the remainder of *Standing Financial Instructions* paragraph 7.9 below the Trust shall consider the most applicable form of contract for each contract opportunity (including to the extent appropriate any mandatory NHS Standard Contract Conditions available) and should consider obtaining support from a suitably qualified professional advisor (including where appropriate legal advisors).

7.9.2. *Contracts for Building or Engineering Works*

- (a) Subject to *Standing Financial Instructions* paragraphs 7.9.2(b) to (d) inclusive, every contract for building or engineering works shall embody or be in the terms of the current edition of one of the Joint Contracts Tribunal Standard Forms of Building Contract or Department of the Environment (GC/Wks) Standard forms of contract amended to comply with "CONCODE" (where applicable).

- (b) When the content of the work is primarily engineering every contract shall embody or be in the terms of:
 - (i) the General Conditions of Contract recommended by the Institution of Mechanical Engineers; and/or
 - (ii) the Association for Consultancy and Engineering (Form A).
- (c) In the case of civil engineering work every contract shall embody or be in the terms of the General Conditions of Contract recommended by:
 - (i) the Institution of Civil Engineers; and/or
 - (ii) the Association for Consultancy and Engineering; and/or
 - (iii) the Civil Engineering Contractors Association.
- (d) Each of the documents referred to in Standing Financial Instructions paragraphs 7.9.4 (a)(i) to (a)(iii) inclusive may be modified and/or amplified to accord with Department of Health guidance and with appropriate professional advice (including legal advice if necessary) to cover special features of individual projects.

7.9.3. *Employment, Agency and Consultants Contracts*

- (a) The Chief Executive shall nominate officers with delegated authority to enter into permanent and temporary contracts of employment and other contracts for agency staff or persons engaged on a consultancy basis.
- (b) The Executive Director of Finance shall maintain such procedures as necessary to ensure the Trust complies with the Monitor's / NHS Improvement's consultancy spending controls guidance which requires that the Trust secures advance approval from the Monitor / NHS improvement before:
 - (i) the Trust signs new contracts for consultancy targets over £50,000;
 - (ii) the Trust extends or varies existing contracts or incurs additional expenditure to which the Trust is not already committed (where the contact value exceeds £50,000).

7.9.4. *Compliance Requirements for all Contracts*

- (a) The Trust may only enter into contracts within the statutory powers delegated to it by the Secretary of State, Monitor / NHS Improvement or otherwise derived from statute and each such contract shall:
 - (i) comply with the Trust's Constitution and Standing Financial Instructions;
 - (ii) comply with the requirements of all European Union Directives directly enforceable in the UK and all other statutory provisions;

- (iii) embody substantially the same terms and conditions of contract as were the basis on which tenders or quotations were invited;
- (iv) be entered into and managed to obtain best value;
- (v) have an officer nominated by the Chief Executive to oversee and manage each contract on behalf of the Trust.

7.10. Specific Requirements

7.10.1. **Disposals** - Competitive Tendering or Quotation procedures shall not apply to the disposal of:

- (a) any matter in respect of which a fair price can be obtained only by negotiation or sale by auction as determined (or pre-determined in a reserve) by the Chief Executive or his nominated officer;
- (b) obsolete or condemned articles and stores, which may be disposed of in accordance with the supplies policy of the Trust;
- (c) items arising from works of construction, demolition or site clearance, which should be dealt with in accordance with the relevant contract; and/or
- (d) land or buildings concerning which Department of Health guidance or Monitor / NHS Improvement guidance has been issued but subject to compliance with such guidance.

7.10.2. **Applicability of Standing Financial Instructions on Tendering and Contracting to funds held in Trust**

- (a) These *Standing Financial 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.

7.10.3. **Private Finance for capital procurement** - when the Board of Directors proposes, or is required, to use finance provided by the private sector the following should apply:

- (a) the Chief Executive shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector;
- (b) the proposal must be specifically agreed by the Board of Directors; and;
- (c) the selection of a contractor / finance company must be on the basis of competitive tendering or quotations compliant with the duties set out at *Standing Financial Instructions* paragraph 7.2 (Legislation Governing Public Procurement) or procured in partnership with Liverpool and Sefton Health Partnerships Ltd in accordance with the Strategic Partnering Agreement (18th June 2004) and subsequent supplemental deed.

7.11. In-house Services

- 7.11.1. The Chief Executive shall be responsible for ensuring that best value can be demonstrated for all services provided on an in-house basis. The Board of Directors may also determine from time to time that in-house services should be benchmarked or market tested by competitive tendering.
- 7.11.2. In all cases where the Board of Directors determines that in-house services should be subject to competitive tendering the following groups shall be set up:
- (a) specification group, comprising the Chief Executive or nominated officer[s] and specialist.
 - (b) in-house tender group, comprising a nominee of the Chief Executive and technical support.
 - (c) evaluation team, comprising normally a specialist officer, a procurement officer and an Executive Director of Finance representative. For services having a likely annual expenditure exceeding £250,000, a non-Executive Director should be a member of the evaluation team.
- 7.11.3. All groups should work independently of each other and individual officers may be a member of more than one group but no member of the in-house tender group may participate in the evaluation of tenders.
- 7.11.4. The evaluation team shall make recommendations to the officers identified in Table A of the Trust's *Scheme of Reservation and Delegation* (section A35(a) – Quotation, Tendering and Contract Procedures).
- 7.11.5. The Chief Executive shall nominate an officer to oversee and manage the contract on behalf of the Trust.

7.12. Cancellation of contracts

- 7.12.1. Except where specific provision is already made in any applicable mandatory NHS Standard Contract Conditions to be utilised by the Trust - there shall be inserted in every written contract a clause empowering the Trust to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if
- (a) the contractor shall have offered, or given or agreed to give, any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or
 - (b) for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Trust, or
 - (c) for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Trust, or

- (d) if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor), or
- (e) if in relation to any contract with the Trust the contractor or any person employed by him or acting on his behalf shall have committed any offence under the Bribery Act 2010 and other appropriate legislation, or
- (f) if the contract has been subject to a substantial modification which would have required a new procurement procedure, or
- (g) the contractor should, at the time of the award, have been excluded on any of the mandatory grounds set out in the 2015 Regulations.

7.12.2. Save that for paragraph 7.12.1(f) and (g) above, the Trust shall not have an absolute right to recover from the contractor the amount of any loss resulting from such a cancellation.

7.13. Determination of contracts for failure to deliver goods, materials or services

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

8. CONTRACTS FOR PROVISION OF SERVICES

8.1. Contracts

8.1.1. Supported by the Executive Director of Finance the Board of Directors shall regularly review and shall at all times maintain and ensure the capacity of the Trust to provide the *Commissioner Requested Services* referred to in the Trust's *NHS Provider Licence* and other *Terms of Authorisation* and related schedules

8.1.2. Subject to *Standing Financial Instructions* paragraph 8.1.5, the Chief Executive, as the Accountable Officer, is responsible for ensuring the Trust enters into suitable contracts and considering the extent to which mandatory NHS Standard Contract Conditions are applicable. In discharging this responsibility, the Chief Executive should take into account:

- (a) the standards of service quality expected;
- (b) the relevant national service framework (if any);

- (c) the provision of reliable information on cost and volume of services;
- (d) that contracts build, where appropriate, on existing investment plans.

- 8.1.3. In carrying out these functions the Chief Executive should take into account the advice of the Executive Director of Finance regarding the costing of services, payment terms and conditions, and amendments to service and financial frameworks and contracts.
- 8.1.4. Any costing relating to the involvement of the Trust in a tender process or bid for additional external income must be undertaken by the Executive Director of Finance' staff.
- 8.1.5. In exceptional circumstances, for example where the Trust is seeking to retain existing business and / or to win new business, the Trust may decide that it is appropriate for it to enter into a loss-making contract. The decision to enter into any such contract (and as to the terms of such a contract) shall be taken jointly on behalf of the Trust by:
- the Chief Executive; and
 - a Non-Executive Director of the Trust

8.2. Involving Partners and jointly managing risk

- 8.2.1. The Chief Executive should ensure that the Trust works with all partner agencies/bodies involved in both the delivery and the commissioning of the service required.
- 8.2.2. Where partner agencies/bodies are involved the contract should apportion responsibility for handling a particular risk to the party or parties in the best position to influence the event and financial arrangements should reflect this. In this way the Trust can jointly manage risk with all interested parties. Such contracts should be signed by all parties, meet best practice and be annually reviewed.

8.3. Reports to the Board of Directors and its Committees on Contracts

- 8.3.1. The Chief Executive, as the Accountable Officer, will need to ensure that regular reports are provided to the Board of Directors or its appropriate committee detailing actual and forecast income and liability from the contracts.

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

9.1. Remuneration and Terms of Service

- 9.1.1. In accordance with the Constitution, the Board of Directors shall establish a Remuneration and Terms of Service Committee, with clearly defined terms of reference, specifying which posts fall within its area of responsibility, its composition, and the arrangements for reporting.
- 9.1.2. The Remuneration Committee will:
- (a) advise the Board of Directors about appropriate remuneration and terms of service for the Chief Executive and Executive Directors (and other very senior officers) employed by the Trust:
 - (i) all aspects of salary (including any performance-related elements/bonuses);
 - (ii) provisions for other benefits, including pensions and cars;
 - (iii) arrangements for termination of employment and other contractual terms;
 - (b) make such recommendations to the Board of Directors on the remuneration and terms of service of Executive Directors of the Board of Directors (and other senior employees) to ensure they are fairly rewarded for their individual contribution to the Trust - having proper regard to the Trust's circumstances and performance and to the provisions of any national arrangements for such members and staff where appropriate;
 - (c) monitor and evaluate the performance of individual Executive Directors or other very senior officers;
 - (d) advise on and oversee appropriate contractual arrangements for such staff including the proper calculation and scrutiny of termination payments taking account of such national guidance as is appropriate.
- 9.1.3. The Remuneration Committee shall report in writing to the Board of Directors the basis for its recommendations. The Board of Directors shall use the report as the basis for their decisions, but remain accountable for taking decisions on the remuneration and terms of service of Executive Directors or other very senior officers. Minutes of the Board of Directors meetings should record such decisions.
- 9.1.4. The Board of Directors, or where delegated its Committees, will consider and need to approve proposals presented by the Chief Executive for the setting of remuneration and conditions of service for those employees and officers not covered by the Committee.

- 9.1.5. The Trust will pay allowances to the Chairman and non-Executive Directors of the Board of Directors in accordance with instructions issued by the Council of Governors in accordance with the Constitution.
- 9.2. Funded Establishment** (see also *Standing Financial Instructions* paragraph 3.3.2 – Budgetary Control and Reporting)
- 9.2.1. The manpower plans incorporated within the annual budget will form the funded establishment.
- 9.2.2. The funded establishment of any department may not be varied without approval in accordance with the *Scheme of Reservation and Delegation of Powers* and in accordance with *Standing Financial Instructions* paragraph 3.3.2 (Budgetary Control and Reporting).
- 9.3. Staff Appointments** (see also *Standing Financial Instructions* paragraph 3.3.2 (c) – Budgetary Control and Reporting)
- 9.3.1. No Member of the Board of Directors or employee may engage, re-engage, or re-grade employees, either on a permanent or temporary nature, or hire agency staff, or agree to changes in any aspect of remuneration:
- (a) unless authorised to do so by the Chief Executive;
 - (b) within the limit of their approved budget and funded establishment as defined in the *Scheme of Reservation and Delegation of Powers*.
- 9.3.2. The Board of Directors, or where delegated to its Committees, will approve procedures presented by the Chief Executive for the determination of commencing pay rates, condition of service, etc., for employees.
- 9.4. Processing Payroll**
- 9.4.1. The Executive Director of Finance, on behalf of the Board of Directors, is responsible for:
- (a) specifying timetables for submission of properly authorised time records and other notifications;
 - (b) the final determination of pay and allowances;
 - (c) making payment on agreed dates;
 - (d) agreeing the method of payment.
- 9.4.2. The Executive Director of Finance will issue instructions regarding:
- (a) verification and documentation of data;
 - (b) the timetable for receipt and preparation of payroll data and the payment of employees and allowances;

- (c) maintenance of subsidiary records for superannuation, income tax, social security and other authorised deductions from pay;
- (d) security and confidentiality of payroll information;
- (e) checks to be applied to completed payroll before and after payment;
- (f) authority to release payroll data, to regulatory bodies, under the provisions of the Data Protection Act;
- (g) methods of payment available to various categories of employee and officers;
- (h) procedures for payment to employees and officers;
- (i) procedures for the recall of cheques and bank credits;
- (j) pay advances and their recovery;
- (k) maintenance of regular and independent reconciliation of pay control accounts;
- (l) separation of duties in preparing records to safeguard financial transactions;
- (m) the process for the recovery of overpayments of salary;
- (n) a system to ensure the recovery from those leaving the employment of the Trust of sums of money and property due by them to the Trust.

9.4.3. Appropriately nominated managers have delegated responsibility for:

- (a) processing a signed copy of the contract or appointment form and other such documentation as may be required immediately upon an employee commencing duty;
- (b) submitting time records, and other notifications in accordance with agreed timetables;
- (c) 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;
- (d) submitting termination forms in the prescribed form immediately upon knowing the effective date of an employee's or officer's resignation, termination or retirement. Where an employee fails to report for duty or to fulfil obligations in circumstances that suggest they have left without notice, the Executive Director of Finance must be informed immediately;
- (e) 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.

9.5. Contracts of Employment

- 9.5.1. The Board of Directors shall delegate responsibility to an officer for:
- (a) ensuring that all employees are issued with a Contract of Employment in a form approved by the Board of Directors and which complies with employment and Health and Safety legislation;
 - (b) dealing with variations to, or termination of, contracts of employment.

10. NON-PAY EXPENDITURE

10.1. Delegation of Authority

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

10.2. Choice, Requisitioning, Ordering, Receipt and Payment for Goods and Services (see *Standing Financial Instructions* paragraph 7 – Tendering and contracting procedure)

10.2.1. Requisitioning

- (a) requisitions must be made using the Trust's electronic ordering system. The requisitioner, in choosing the item to be supplied (or the service to be performed) shall always obtain the best value for money for the Trust. In so doing, the advice of the Trust's adviser on supply shall be sought. Where this advice is not acceptable to the requisitioner, the Executive Director of Finance (and / or the Chief Executive) shall be consulted, and the relevant authorisation must be obtained before exchequer funds are committed.

10.2.2. System of Payment and Payment Verification

- (a) the Executive Director of Finance shall be responsible for the prompt payment of accounts and claims in accordance with the NHS Better Payments Practice Code. Payment of contract invoices shall be in accordance with contract terms, or otherwise, in accordance with national guidance;

- (b) additionally, the Executive Director of Finance shall also be responsible for ensuring compliance with the Government's Prompt Payment Code. All invoices for small and medium sized businesses and individuals should be paid within 10 days where possible.

10.2.3. The Executive Director of Finance will:

- (a) advise the Board of Directors, or where delegated to its Committees, regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; and, once approved, the thresholds should be incorporated in the Trust's *Scheme of Reservation and Delegation of Powers* and regularly reviewed;
- (b) prepare procedural instructions or guidance in accordance with *Standing Financial Instructions* paragraph 7 on the obtaining of goods, works and services;
- (c) be responsible for the prompt payment of all properly authorised accounts and claims;
- (d) be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable. The system shall provide for:
- (i) a list of employees (including specimens of their signatures and allocated Mersey Care email accounts) authorised to certify invoices,
- (ii) certification that:
- goods have been duly received, examined and are in accordance with specification and the prices are correct
 - work done or services rendered have been satisfactorily carried out in accordance with the order, and, where applicable, the materials used are of the requisite standard and the charges are correct
 - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for the use of vehicles, plant and machinery have been examined
 - where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained
 - the account is arithmetically correct
 - the account is in order for payment,

- (iii) a timetable and system for submission to the Executive Director of Finance of accounts for payment; provision shall be made for the early submission of accounts subject to cash discounts or otherwise requiring early payment,
- (iv) instructions to employees regarding the handling and payment of accounts within the Finance Department;
- (e) be responsible for ensuring that payment for goods and services is only made once the goods and services are received. The Executive Director of Finance must agree any exceptions to this rule other than those set out in *Standing Financial Instructions* paragraph 10.2.4 (Prepayments);
- (f) be responsible for undertaking regular reviews of the employees who are authorised to make requisitions for goods and / or services, including specimens of their signatures.

10.2.4. Prepayments

- (a) with the exception of ‘fully comprehensive maintenance contracts’, prepayments are only permitted where exceptional circumstances apply. In such instances:
 - (i) prepayments are only permitted where the financial advantages outweigh the disadvantages,
 - (ii) the appropriate officer must provide, in the form of a written report, a case setting out all relevant circumstances of the purchase. The report must set out the effects on the Trust if the supplier is at some time during the course of the prepayment agreement unable to meet their commitments,
 - (iii) the Executive Director of Finance will need to be satisfied with the proposed arrangements before contractual arrangements proceed (taking into account the requirements of *Standing Financial Instructions* paragraph 7),
 - (iv) the budget holder is responsible for ensuring that all items due under a prepayment contract are received and must immediately inform the appropriate Executive Director or Divisional Director or Chief Executive if problems are encountered.

10.2.5. Official orders

- (a) the Trust e-procurement system must be used for all orders;
- (b) the e-procurement system will issue orders in consecutive numerical order and in a form approved by the Executive Director of Finance;
- (c) the e-procurement orders will state the Trusts terms and conditions of trade;

- (d) only those members of staff or agents of the Trust approved by their line manager may requisition or authorise Trust orders and at all times they must comply with the procedures and value levels set out in the *Scheme of Reservation and Delegation of Powers* for this purpose;
- (e) requisitions must be approved before orders for goods and services can be placed. (Failure to observe this requirement may result in disciplinary action).

10.2.6. Duties of Managers and Officers

- (a) subject to *Standing Financial Instructions paragraph 8.1.4*, managers and officers must ensure that they comply fully with the guidance and limits specified by the Executive Director of Finance and that:
 - (i) all contracts (except as otherwise provided for in the *Scheme of Reservation and Delegation of Powers*), leases, tenancy agreements and other commitments which may result in a liability are notified to the Executive Director of Finance in advance of any commitment being made,
 - (ii) contracts are advertised where required by *Standing Financial Instructions paragraph 7*,
 - (iii) where consultancy advice is being obtained, the procurement of such advice must be in accordance with guidance issued by the Department of Health and Monitor / NHS Improvement,
 - (iv) 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:
 - isolated gifts of a trivial character or inexpensive seasonal gifts, such as calendars;
 - conventional hospitality, such as lunches in the course of working visits.

Note - the provisions in paragraphs 10.2.6 (iv) above needs to be read in conjunction with the following:

- the *Standing Orders for the Board of Directors*, specifically paragraph 11.12 to 11.14 of *Annex 9* in the Trust's *Constitution*,
- the Trust's *Standards of Business Conduct*, and
- the principles outlined in the national guidance contained in NHS England's "*Managing Conflicts of Interest in the NHS: Guidance for staff and organisations*",

- (v) no requisition / order is placed for any item or items for which there is no budget provision unless authorised in advance by the Executive Director of Finance on behalf of the Chief Executive,
 - (vi) all goods, services, or works are ordered on an official order except works and services executed in accordance with a contract and purchases from petty cash,
 - (vii) word of mouth 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",
 - (viii) orders are not split or otherwise placed in a manner devised so as to avoid the financial thresholds,
 - (ix) goods are not taken on trial or loan in circumstances that could commit the Trust to a future uncompetitive purchase,
 - (x) changes to the list of employees and officers authorised to certify invoices are notified to the Executive Director of Finance,
 - (xi) purchases from petty cash are restricted in value and by type of purchase in accordance with instructions issued by the Executive Director of Finance,
 - (xii) petty cash records are maintained in a form as determined by the Executive Director of Finance;
- (b) the Chief Executive and 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 *Part A and Part B of the Health Building Note 00-08*. The technical audit of these contracts shall be the responsibility of the relevant Executive Director or other senior manager.

10.2.7. Under no circumstances should goods or services be ordered through the Trust for personal or private use (other than approved lease car or similar schemes).

11. EXTERNAL BORROWING AND INVESTMENTS

11.1. External borrowing

11.1.1. The Executive Director of Finance will advise the Board of Directors, or where delegated to its Committee(s), concerning the Trust's ability to pay dividends on, and repay Public Dividend Capital (PDC) and any proposed new borrowing, within the limits set by Monitor / NHS Improvement in the Trust's NHS Provider Licence. The Executive Director of Finance is also responsible for reporting periodically to the Board of Directors concerning the PDC debt and all loans and overdrafts.

- 11.1.2. The Board of Directors, or where delegated to its Committee(s), will agree the list of employees (including specimens of their signatures) who are authorised to make short term borrowings on behalf of the Trust. This must contain the Chief Executive and the Executive Director of Finance.
- 11.1.3. The Executive Director of Finance must prepare detailed procedural instructions concerning applications for loans and overdrafts.
- 11.1.4. All short-term borrowings should be kept to the minimum period of time possible, consistent with the overall cash flow position, represent good value for money, and comply with the latest guidance from the Monitor / NHS Improvement.
- 11.1.5. Any short-term borrowing must be with the authority of two members of an authorised panel, one of which must be the Chief Executive or the Executive Director of Finance. The Board of Directors, or where delegated to its Committee(s), must be made aware of all short term borrowings at the next meeting.
- 11.1.6. All long-term borrowing must be consistent with the plans outlined in the current plans and be approved by the Board of Directors, or where delegated to its Committee(s).

11.2. Investments

- 11.2.1. Temporary cash surpluses must be held only in such public or private sector investments as notified by Monitor / NHS Improvement and / or the Secretary of State and authorised by the Board of Directors.
- 11.2.2. The Executive Director of Finance is responsible for advising the Board of Directors on investments and shall report periodically to the Board of Directors concerning the performance of investments held and providing assurance that the Trust acts in accordance with the latest Best Practice Guidance in Making Investments for NHS Foundation Trusts or other guidance issued by Monitor / NHS Improvement.
- 11.2.3. The Executive Director of Finance will prepare detailed procedural instructions on the operation of investment accounts and on the records to be maintained.

12. NHS PROVIDER LICENCE

- 12.1. The Executive Director of Finance should ensure that Members of the Board of Directors are aware of the NHS Provider Licence, Risk Assessment Framework and other guidance from Monitor / NHS Improvement regarding resource and capital allocation and funding to Trusts. The Executive Director of Finance should also ensure that the direction and guidance in these documents is followed by the Trust.

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

13.1. Capital Investment

13.1.1. The Chief Executive:

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

13.1.2. For every capital expenditure proposal the Chief Executive shall ensure:

- (a) that a business case (in line with the appropriate guidance issued by Monitor / NHS Improvement) is produced setting out:
 - (i) an option appraisal of potential benefits compared with known costs to determine the option with the highest ratio of benefits to costs;
 - (ii) the involvement of appropriate Trust personnel and external agencies;
 - (iii) appropriate project management and control arrangements;
- (b) that the Executive Director of Finance has certified to the costs and revenue consequences detailed in the business case.

13.1.3. For capital schemes where the contracts stipulate stage payments, the Chief Executive will issue procedures for their management, incorporating the recommendations of “*Part A and Part B of the Health Building Note 00-08*”.

13.1.4. The Executive Director of Finance shall assess on an annual basis the requirement for the operation of the construction industry tax deduction scheme in accordance with HM Revenue and Customs guidance.

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

13.1.6. The approval of a capital programme shall not constitute approval for expenditure on any scheme. The Chief Executive shall issue to the manager responsible for any scheme:

- (a) specific authority to commit expenditure;
- (b) authority to proceed to tender (see overlap with *Standing Financial Instructions* paragraph 7);

- (c) approval to accept a successful tender (see overlap with *Standing Financial Instructions* paragraph 7).

13.1.7. The Chief Executive will issue a scheme of delegation for capital investment management in accordance with the protection of “*Assets Guidance for NHS Foundation Trusts*” guidance issued by Monitor / NHS Improvement, “*Part A and Part B of the Health Building Note 00-08*” guidance and the Trust’s Standing Orders for the Board of Directors (Annex 9 of the Constitution).

13.1.8. The Executive Director of Finance shall issue procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes. These procedures shall fully take into account:

- (a) the delegated limits for capital schemes included in Annex C of HSC (1999) 246;
- (b) *Supporting NHS Providers: Guidance on Transactions for NHS Foundation Trusts*, the *Foundation Trust Annual Reporting Manual* and other relevant guidance from Monitor / NHS Improvement;
- (c) the Trust’s investment policy and capital prioritisation list

13.2. Private Finance Initiative (PFI)

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

13.2.2. The Executive Director of Finance shall demonstrate that the use of private finance represents value for money and genuinely transfers significant risk to the private sector.

- (a) where the sum involved exceeds delegated limits, the business case must be prepared by the Trust in line with any best practice / current guidelines from Monitor / NHS Improvement.
- (b) the proposal must be specifically agreed by the Board of Directors.

13.3. Asset Registers

13.3.1. The Chief Executive is responsible for the maintenance of registers of assets, taking account of the advice of the 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.

13.3.2. The Trust shall maintain an asset register recording non current assets.

- 13.3.3. Additions to the fixed asset register must be clearly identified to an appropriate budget holder and be validated by reference to:
- (a) properly authorised and approved agreements, architect's certificates, supplier's invoices and other documentary evidence in respect of purchases from third parties;
 - (b) stores, requisitions and wages records for own materials and labour including appropriate overheads;
 - (c) lease agreements in respect of assets held under a finance lease and capitalised.
- 13.3.4. Where capital assets are sold, scrapped, lost or otherwise disposed of, their value must be removed from the accounting records and each disposal must be validated by reference to authorisation documents and invoices (where appropriate).
- 13.3.5. The Executive Director of Finance shall approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.
- 13.3.6. The value of land and buildings shall be indexed to current values in accordance with indices agreed with the District Valuer. The values of each asset shall be depreciated using methods specified in the Foundation Trust Annual Reporting Manual from Monitor / NHS Improvement.
- 13.3.7. The Executive Director of Finance shall calculate and pay capital charges as specified in the Foundation Trust Annual Reporting Manual from Monitor / NHS Improvement.
- 13.3.8. The Executive Director of Finance is responsible for reviewing the Depreciation Policies and ensuring that they meet the needs of the Trust. Any proposed amendments must be discussed with the External Auditors and agreed by the Audit Committee.

13.4. Security of Assets

- 13.4.1. The overall control of non current assets is the responsibility of the Chief Executive.
- 13.4.2. Asset control procedures (including non current assets, cash, cheques and negotiable instruments, and also including donated assets) must be approved by the Executive Director of Finance and take account of guidance issued by Monitor / NHS Improvement. This procedure shall make provision for:
- (a) recording managerial responsibility for each asset;
 - (b) identification of additions and disposals;
 - (c) identification of all repairs and maintenance expenses;
 - (d) physical security of assets;

- (e) periodic verification of the existence of, condition of, and title to, assets recorded;
 - (f) identification and reporting of all costs associated with the retention of an asset;
 - (g) reporting, recording and safekeeping of cash, cheques, and negotiable instruments.
- 13.4.3. All discrepancies revealed by verification of physical assets to fixed asset register shall be notified to the Executive Director of Finance.
- 13.4.4. Whilst each employee and officer has a responsibility for the security of property of the Trust, it is the responsibility of Board of Directors members and senior employees in all disciplines to apply such appropriate routine security practices in relation to NHS property as may be determined by the Board of Directors. Any breach of agreed security practices must be reported in accordance with agreed procedures.
- 13.4.5. Any damage to the Trust's premises, vehicles and equipment, or any loss of equipment, stores or supplies must be reported by Board of Directors members and employees in accordance with the procedure for reporting losses.
- 13.4.6. Where practical, assets should be marked as Trust property.

14. STORES AND RECEIPT OF GOODS

14.1. General position

- 14.1.1. Stores, defined in terms of controlled stores and departmental stores (for immediate use) should be:
- (a) kept to a minimum;
 - (b) subjected to annual stock take;
 - (c) valued at the lower of cost and net realisable value.

14.2. Control of Stores, Stocktaking, condemnations and disposal

- 14.2.1. Subject to the responsibility of the 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 control of any Pharmaceutical stocks shall be the responsibility of a designated Pharmaceutical Officer; the control of any fuel oil and coal of a designated Estates Manager.

- 14.2.2. The responsibility for security arrangements and the custody of keys for any stores and locations shall be clearly defined in writing by the designated manager / Pharmaceutical Officer. Wherever practicable, stocks should be marked as health service property.
- 14.2.3. The 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.
- 14.2.4. 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.
- 14.2.5. Where a complete system of stores control is not justified, alternative arrangements shall require the approval of the Executive Director of Finance.
- 14.2.6. The designated Manager / Pharmaceutical 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 overlap with Standing Financial Instructions paragraph 15 - Disposals and Condemnations, Losses and Special Payments). Procedures for the disposal of obsolete stock shall follow the procedures set out for disposal of all surplus and obsolete goods.

14.3. Goods supplied by NHS Supply Chain

- 14.3.1. For goods supplied via the NHS Supply Chain central warehouses, the Chief Executive shall identify those authorised to requisition and accept goods from the store. The authorised person shall check receipt against the delivery note before forwarding this to the Executive Director of Finance who shall need to be satisfied that the goods have been received before accepting the recharge.

15. DISPOSALS AND CONDEMNATIONS, LOSSES AND SPECIAL PAYMENTS

15.1. Disposals and Condemnations - Procedures

- 15.1.1. The Executive Director of Finance must prepare detailed procedures for the disposal of assets in accordance with the Regulatory Framework and guidance issued by Monitor / NHS Improvement including condemnations, and ensure that these are notified to managers.
- 15.1.2. When it is decided to dispose of a Trust asset, the Head of Department or authorised deputy will determine and advise the Executive Director of Finance of the estimated market value of the item, taking account of professional advice where appropriate (refer Table A of the Trust's *Scheme of Reservation and Delegation of Powers* paragraph A14 - Disposal and Condemnations)

- 15.1.3. All unserviceable articles shall be:
- (a) condemned or otherwise disposed of by an employee authorised for that purpose by the Executive Director of Finance;
 - (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.
- 15.1.4. The Condemning Officer shall need to be satisfied 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.
- 15.1.5. Under no circumstances should goods or assets be gifted to a third party without the express permission of the Executive Director of Finance.

15.2. Losses and Special Payments – Procedures

- 15.2.1. The Executive Director of Finance must prepare procedural instructions on the recording of and accounting for condemnations, losses, and special payments.
- 15.2.2. Any employee or officer discovering or suspecting a loss of any kind must either immediately inform their head of department, who must immediately inform the Chief Executive and the Executive Director of Finance or inform an officer charged with responsibility for responding to concerns involving loss. This officer 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 immediately inform the police if theft or arson is involved. In cases of fraud and corruption or of anomalies which may indicate fraud or corruption, the Executive Director of Finance must inform the relevant Local Counter Fraud Service (LCFS) and Counter Fraud and Security Management Services (CFSMS) – a division of the NHS Business Services Authority (NHS Protect) - and regional team in accordance with Secretary of State for Health's Directions and NHS Protect.
- 15.2.3. The Executive Director of Finance must notify the Counter Fraud and Security Management Services (CFSMS) and the External Auditor of all frauds.
- 15.2.4. For losses apparently caused by theft, arson, neglect of duty or gross carelessness, except if trivial, the Executive Director of Finance must immediately notify:
- (a) the Board of Directors,
 - (b) the External Auditor.
- 15.2.5. In the case of a significant loss the Executive Director of Finance shall arrange for Internal Audit to investigate the circumstances surrounding the loss and ensure that procedures are enhanced to mitigate the risk of a re-occurrence.

- 15.2.6. Within limits delegated to it by the Monitor / NHS Improvement, the Board of Directors shall approve the writing-off of losses.
- 15.2.7. The Executive Director of Finance shall be authorised to take any necessary steps to safeguard the Trust's interests in bankruptcies and company liquidations.
- 15.2.8. For any loss, the Executive Director of Finance should consider whether any insurance claim can be made.
- 15.2.9. The Executive Director of Finance shall maintain a Losses and Special Payments Register in which write-off action is recorded.
- 15.2.10. No special payments exceeding delegated limits shall be made without the prior approval of HM Treasury and Monitor / NHS Improvement.
- 15.2.11. All losses and special payments incurred will be reported to the Audit Committee as detailed in that Committee's workplan (no less than three times per year).

16. INFORMATION TECHNOLOGY

16.1. Responsibilities and duties of the Executive Director of Finance

- 16.1.1. The Executive Director of Finance, who is responsible for the accuracy and security of the computerised financial data of the Trust, shall:
- (a) devise and implement any necessary procedures to ensure adequate (reasonable) protection of the Trust's data, programs and computer hardware for which the Director is responsible from accidental or intentional disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for the Data Protection Act 1998;
 - (b) ensure that adequate (reasonable) controls exist over data entry, processing, storage, transmission and output to ensure security, privacy, accuracy, completeness, and timeliness of the data, as well as the efficient and effective operation of the system;
 - (c) ensure that adequate controls exist such that the computer operation is separated from development, maintenance and amendment;
 - (d) ensure that an adequate management (audit) trail exists through the computerised system and that such computer audit reviews as the Director may consider necessary are being carried out.
- 16.1.2. The Executive Director of Finance shall need to ensure that new financial systems and amendments to current financial systems are developed in a controlled manner and thoroughly tested prior to implementation. Where this is undertaken by another organisation, assurances of adequacy must be obtained from them prior to implementation.

16.1.3. The Chief Executive shall publish and maintain a Freedom of Information (FOI) Publication Scheme, or adopt a model Publication Scheme approved by the Information Commissioner. A Publication Scheme is a complete guide to the information routinely published by a public authority. It describes the classes or types of information about our Trust that we make publicly available.

16.2. Responsibilities and duties of other Directors and Officers in relation to computer systems of a general application

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

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

16.3. Contracts for Computer Services with other health bodies or outside agencies

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

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

16.4. Risk Assessment

16.4.1. The Executive Director of Finance shall ensure that risks to the Trust arising from the use of IT are effectively identified and considered and appropriate action taken to mitigate or control risk. This shall include the preparation and testing of appropriate disaster recovery plans.

16.5. Requirements for Computer Systems which have an impact on corporate financial systems

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

- (a) systems acquisition, development and maintenance are in line with corporate policies such as a Digital Strategy;
- (b) data produced for use with financial systems is adequate, accurate, complete and timely, and that a management (audit) trail exists;

- (c) the Executive Director of Finance staff have access to such data;
- (d) such computer audit reviews as are considered necessary are being carried out;
- (e) regular backups and contingency strategies are in place.

17. PATIENTS' MONEY AND PROPERTY (excluding patients at Ashworth Hospital)

- 17.1. The Trust has a responsibility to provide safe custody for money and other personal property handed in by patients, in the possession of unconscious or confused patients, or found in the possession of patients dying in hospital or dead on arrival.
- 17.2. The Chief Executive is responsible for ensuring that patients or their guardians, as appropriate, are informed before or at admission that the Trust will not accept responsibility or liability for patients' money and property brought into Health Service premises, unless it is handed in for safe custody and a copy of an official patients' property record is obtained as a receipt. Examples of how this can be achieved are:
 - (a) notices and information booklets; (notices are subject to sensitivity guidance)
 - (b) hospital admission documentation and property records;
 - (c) the oral advice of administrative and nursing staff responsible for admissions.
- 17.3. The Executive Director of Finance must provide detailed written instructions on the collection, custody, investment, recording and safekeeping of patients' monies (including instructions on the distribution of the monies of deceased patients and of patients transferred to other premises) for all staff whose duty is to administer, in any way, the money of patients. Due care should be exercised in the management of a patient's money in order to maximise the benefits to the patient.
- 17.4. The Executive Director of Finance must provide written instructions on the collection, custody, recording and safekeeping of patients' property within the Local Services Division, the Specialised Learning Disability Division and the Secure Division in respect of those patients who are not at Ashworth Hospital (including instructions on the disposal of 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.
- 17.5. Where Department of Health instructions require the opening of separate accounts for patients' monies, these shall be opened and operated under arrangements agreed by the Executive Director of Finance.
- 17.6. In all cases where money or property of a deceased patient is of a total value in excess of £10,000 (or such other amount as may be prescribed by any amendment to the Administration of Estates, Small Payments, Act 1965), the production of Probate or Letters of Administration shall be required before any of the property is

released. Where the total value of property is £10,000 or less, forms of indemnity shall be obtained.

- 17.7. Staff should be informed, on appointment, by the appropriate departmental or senior manager of their responsibilities and duties for the administration of the property of patients.
- 17.8. Where patients' property or income is received for specific purposes and held for safekeeping the property or income shall be used only for that purpose, unless any variation is approved by the donor or patient in writing.
- 17.9. Patients' income, including pensions and allowances, shall be dealt with in accordance with current Department of Health and Department for Work and Pensions instructions (see also Standing Financial Instructions paragraph 18 - Patients' Money and Property (Secure Services)).
- 17.10. Where deemed appropriate and necessary, the administration of service user monies will be undertaken by the Patients' Cash Team under the Trust's overall Corporate Appointeeship (see *Standing Financial Instructions* paragraph 18 below).
- 17.11. Refunds of money handed in for safe custody will be dealt with in accordance with current Department of Health and Department for Work and Pensions instructions. Property other than cash, which has been handed in for safe custody, shall be returned to the patient as required by the officer who has been responsible for its security. The return shall be receipted by the patient or guardian as appropriate and witnessed.
- 17.12. The property of deceased patients shall be effected by the officer who has been responsible for its security, such disposal shall be in accordance with written instructions issued by the Executive Director of Finance, in particular, where cash or valuables have been deposited for safe custody, they shall only be released after written authority has been given by the Executive Director of Finance. Such authority shall include details of the lawful next of kin or other person entitled to the cash and valuables in question.
- 17.13. In respect of deceased patients, if there is no will and no lawful next of kin the property vests in the Crown and particulars shall, therefore, be notified to the Treasury Solicitor.
- 17.14. Any funeral expenses necessarily borne by the Trust are a first charge on a deceased person's estate. Where arrangements for burial or cremation are not made privately, any element of the estate held by the Trust may be appropriated towards funeral expenses, upon the authorisation of the Executive Director of Finance.

18. PATIENTS' MONEY AND PROPERTY (for those patients at Ashworth Hospital)

- 18.1. The Executive Director of Finance must provide written instructions on the collection, custody, recording and safekeeping of patients' property within Secure Services who are patients at Ashworth Hospital (including instructions on the disposal of 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.
- 18.2. Within Ashworth Hospital, cash and cash related items, are deemed as 'prohibited items' for the patients' safety. In this instance the Trust manages the patients' financial affairs on their behalf, including all dealings with the Department of Work and Pensions.
- 18.3. The Executive Director of Finance holds the "Corporate Appointeeship" for patients within Ashworth Hospital.
- 18.4. The Executive Director of Finance, as the Trust's accountable officer for the corporate appointeeship, can nominate other officers, from the Trust, (authorised representatives); to complete benefit related documentation and claim forms on behalf of the Trust.
- 18.5. The Executive Director of Finance must provide detailed written instructions to ensure that there is good financial governance in the area of patients' benefits.

19. ACCEPTANCE OF GIFTS BY STAFF AND LINK TO STANDARDS OF BUSINESS CONDUCT

(overlaps with the *Constitution and Standards of Business Conduct*)

- 19.1. The Executive Director of Finance shall ensure that all staff are made aware of the Trust policy on acceptance of gifts and other benefits in kind by staff. Guidance is made available through the Trust's *Standards of Business Conduct* policy. This policy follows the guidance contained in NHS England's "*Managing Conflicts of Interest in the NHS: Guidance for staff and organisations*" and is also deemed to be an integral part of these *Standing Financial Instructions*.

20. RETENTION OF RECORDS

- 20.1. The Chief Executive shall be responsible for maintaining archives for all records required to be retained in accordance with Department of Health guidelines.
- 20.2. The records held in archives shall be capable of retrieval by authorised persons.
- 20.3. Records held in accordance with latest Department of Health guidance shall only be destroyed at the express instigation of the Chief Executive. Detail shall be maintained of records so destroyed.

21. RISK MANAGEMENT AND INSURANCE

21.1. Programme of Risk Management

- 21.1.1. The Chief Executive shall ensure that the Trust has a programme of risk management, in accordance with current directions and guidance in relation to assurance framework requirements from Monitor / NHS Improvement, which must be approved and monitored by the Board of Directors.
- 21.1.2. The programme of risk management shall include:
- (a) a process for identifying and quantifying risks and potential liabilities;
 - (b) engendering among all levels of staff a positive attitude towards the control of risk;
 - (c) management processes to ensure all significant risks and potential liabilities are addressed including effective systems of internal control, cost effective insurance cover, and decisions on the acceptable level of retained risk;
 - (d) contingency plans to offset the impact of adverse events;
 - (e) audit arrangements including; Internal Audit, clinical audit, health and safety review;
 - (f) a clear indication of which risks shall be insured;
 - (g) arrangements to review the Risk Management programme.
- 21.1.3. The existence, integration and evaluation of the above elements will assist in providing a basis to complete the Annual Governance Statement within the Annual Report and Accounts as required by Foundation Trust Annual Reporting Manual from Monitor / NHS Improvement.

21.2. Insurance: Risk Pooling Schemes administered by NHS Litigation Authority

- 21.2.1. The Board of Directors shall decide if the Trust will insure through the risk pooling schemes administered by the NHS Litigation Authority or self insure for some or all of the risks covered by the risk pooling schemes. If the Board of Directors 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.

21.3. Insurance arrangements with commercial insurers

- 21.3.1. As a Foundation Trust there is no general prohibition on entering into insurance arrangements with commercial insurers. However the Executive Director of Finance should secure appropriate specialised advice and ensure value for money by procuring any insurance cover in line with section 7 of the Standing Financial Instructions

21.4. Arrangements to be followed by the Board of Directors in agreeing insurance cover

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

21.5. Indemnity for Board of Directors Members, Associate Directors and the Trust Secretary

- 21.5.1. Members of the Board of Directors (i.e., the Chair, Non-Executive Directors and Executive Directors), Associate Directors and the Trust Secretary who act honestly and in good faith will not have to meet out of their own personal resources the costs associated with any personal civil liability which accrues to them in the execution or purported execution of their functions, save where they have acted recklessly. Any cost arising in this way will be met by the Trust. The Trust may purchase and maintain insurance against this liability for its own benefit and for the benefit of members of the Board of Directors, Associate Directors and of the Trust Secretary.



APPLICATION TO WAIVER COMPETITIVE QUOTATION / TENDERING PROCEDURE

Prior to completing this form, Requisitioners should read section 7.4 (Decisions to Tender and Exceptions to Requirement to Tender) of the Trust's *Standing Financial Instructions* and Table B (Delegated Financial Limits) of the *Scheme of Reservation and Delegation of Powers*.

APPLICATIONS ARE SUBJECT TO CONSIDERATION BY THE AUDIT COMMITTEE. OFFICERS MAY BE ASKED TO ATTEND THE AUDIT COMMITTEE TO EXPLAIN THE ACTION TAKEN

INSTRUCTIONS FOR COMPLETION OF THIS FORM CAN BE FOUND OVERLEAF

PART A - APPLICATION DETAILS (for completion by the Requisitioner):

Application Number:	PUR044/	NB - available from the Head of Procurement / Procurement Team
Supplier Name:		
Type of Supplier:		
Value:	£	

Note – the anticipated value cannot exceed **£164,176 (exc. VAT) during the contract life**. If it does, under European Procurement Regulations, the Trust may be subject to legal challenge.

<p>Reason for this Waiver in accordance with the paragraph 7.4.3(b) of the Trust's Standing Financial Instructions:</p> <p><i>(NB - Requisitioners must select only one of these following reasons)</i></p>	<input type="checkbox"/>	(i)	in very exceptional circumstances where the Chief Executive decides that formal tendering procedures or a competitive quotation would not be practicable or the estimated expenditure or income would not warrant formal tendering procedures
	<input type="checkbox"/>	(ii)	where the timescale genuinely precludes competitive tendering or a competitive quotation for reasons of extreme urgency brought about by events unforeseeable by the Trust and not attributable to the Trust. Failure to plan the work properly is not a justification for waiving the requirement to tender
	<input type="checkbox"/>	(iii)	where the works, services or supply required are available from only one source for technical or artistic reasons or for reasons connected with the protection of exclusive rights where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement
	<input type="checkbox"/>	(iv)	when the goods required by the Trust are a partial replacement for, or in addition to, existing goods and to obtain the goods from a supplier other than the supplier who supplied the existing goods would oblige the Trust to acquire goods with different technical characteristics and this would result in: <ul style="list-style-type: none"> incompatibility with the existing goods, or disproportionate technical difficulty in the operation and maintenance of the existing goods, but no such contract may be entered in for a duration of more than three years
	<input type="checkbox"/>	(v)	when works or services required by the Trust are additional to works or services already contracted for but for unforeseen circumstances such additional works or services have become necessary and that such additional works or services: <ul style="list-style-type: none"> cannot for technical or economic reasons be carried out separately from the works or services under the original contract without major inconvenience to the Trust, or can be carried out or provided separately from the works or services under the original contract but are strictly necessary to the latest stages of performance of the original contract, provided that the value of such additional works or services does not exceed 50% of the value of the original contract

PART A - APPLICATION DETAILS *(continued)*:

Additional information / rationale to support selected reason for this waiver:

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Description of the service / work being commissioned:

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Expected outcome / benefit to the Trust from commissioning this service / work:

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Note – if this Application for Waiver is successful, the supplier will still be subject to the terms and conditions of service relating to the supply of goods and services to the Trust (available from the Procurement Team)

PART B - REQUISITIONED BY:

Name of Requisitioner:			
Job Title:			
Division:			
Signature:		Date:	
Supporting Director:			
Job Title:			
Signature:		Date:	

Note – in signing this Application, both the *Requisitioner* and the *Supporting Director* declare they have
(1) read the appropriate sections of the Standing Financial Instructions / Scheme of Reservation & Delegation;
(2) no pecuniary interest in the company / individual supplying the services described in this Application.

PART C – SUPPLIER INFORMATION:			
Name of Supplier:			
Full Postal Address:			
	Postcode:		
Telephone No:			
Email Address:			
Note – if this Application for Waiver is successful, a Supplier Due Diligence Check will still need to be undertaken prior to ordering any goods or services (details available from the Procurement Team)			
Value (net total contract)	Cost per Annum (if applicable)	£	
	Cost over Contract Lifetime:	£	
Daily Rate (equivalent):	£		
Duration of Contract:			
Note – the Value needs to be the full cost (including VAT) over the lifetime of the contract. If the Duration of the contact is more than one year, please provide the expected Value each year (if applicable)			
Has a waiver been approved for this supplier in the last 24 months?		Yes	<input type="checkbox"/>
		No	<input type="checkbox"/>
If YES, please state the cumulative value of waivers for this supplier over the last 24 months and quote the previous waivers application numbers		£	
		PRU044/	
Please list any other supplier that you have obtained quotations / tenders from (if applicable) (NB – please insert NOT APPLICABLE if no other quotations / tenders have been sought)			
Supplier Name		Quoted Price	
		£	
		£	
PART D – AUTHORISATION (coordinated by the Procurement Team):			
Procurement Team Officer:			
Job Title:			
Signature:		Date:	
Note – This form will only be sent to the Authorising Director (usually the Chief Executive / Deputy Chief Executive) once the Procurement Team Officer (normally the Head of Procurement) is content that the supporting information has been completed by the Requisitioner . The Authorising Director will not approve an application until it has been approved for completeness by the Procurement Team Officer			
Name of Authorising Director:			
Job Title			
Signature:		Date:	
Note – Requisitioners should not proceed in commissioning the service until the Authorising Officer (normally the Chief Executive / Deputy Chief Executive) has approved this form			
PART E – PROCESSING ORDER (coordinated by the Procurement Team):			
Order / E-Proc Number:			
Order Processed by:			
Date Order Placed:			
ALL COMPLETED FORMS ARE TO BE FORWARDED TO THE PROCUREMENT TEAM. THE FINANCE DIRECTORATE WILL PROVIDE A SUMMARY TO THE AUDIT COMMITTEE TO CONSIDER WAIVER APPLICATIONS			

APPLYING FOR A TENDER WAIVER – PROCESS STEPS

Step 1

To be completed by the **Requisitioner**

Read section 7.4 of the *Standing Financial Instructions* and Table B of the *Scheme of Reservation & Delegation*

Available at www.merseyscare.nhs.uk, click on *Working for Us* followed by *Policies and Procedures*

NB - if the anticipated value is in excess of £164,176 (exc. VAT) please liaise first with the Procurement Team

Step 2

To be completed by the **Requisitioner**

Complete **PART A – APPLICATION DETAILS** of the Application to Waiver Form

Pay particular attention to:

- in the *Type of Supplier* box, using a simple description to explain the supplier, (e.g., management consultancy, IT supplier etc.)
- checking only one of the reasons under para 7.4.3(b)
- providing information to support your para 7.4.3(b) selection, the service being commissioned and the expected outcome

Step 3

To be completed by the **Requisitioner** and the **Supporting Director**

Complete **PART B – REQUISITIONED BY** of the Application to Waiver Form

The **Requisitioner** needs to ensure that the Budget Holder is aware and that financial resources are available to pay for these services

Step 4

To be completed by the **Requisitioner**

Complete **PART C – SUPPLIER INFORMATION** of the Application to Waiver Form

Pay particular attention to:

- providing the full contact details for the supplier
- outlining the value and duration of this proposed supply arrangements
- providing details if a tender waiver application has ever been used in respect of this supplier in the last 24 months
- if quotes / tenders from other suppliers are available, explaining why this supplier has been selected (using the *Additional Information / Rationale* section in **PART A** of the form)

Step 5

To be completed by the **Procurement Team Officer** and **Authorising Director**

Complete **PART D – AUTHORISATION** of the Application to Waiver Form

The **Procurement Team Officer**, (usually the *Head of Procurement*) will check to ensure the application has been completed correctly and **ONLY THEN** will forward to the **Authorising Director** (usually the *Chief Executive / Deputy Chief Executive*) for approval

Step 6

To be completed by the **Requisitioner** and the **Procurement Team**

Complete **PART E – PROCESSING ORDER** of the Application to Waiver Form
Completed Application Forms are to be sent to the Procurement Team

Once approved the **Requisitioner** should submit an **E-Proc Requisition**. Until this has been approved and received by the **Procurement Team**, the transaction cannot be completed.

A summary of tender waiver applications will (when applicable) be submitted by the Finance Directorate for consideration at the Audit Committee. Officers requisitioning goods and service through this process may be asked to attend the Audit Committee to account for their actions

Advice and support is available from the Procurement Team to Requisitioners preparing an Application Form