



London Ambulance Service NHS Trust

Standing Financial Instructions

November 2014

Approved
Trust Board
25.11.2014

PREAMBLE

1. The “Directions on Financial Management in England” issued under HC (91)25 in 1991 state that each Board must adopt Standing Financial instructions (SFIs) setting out the responsibilities of individuals.
2. Each Board operates within the statutory framework within which it is also required to adopt Standing Orders. In addition to the Standing Orders, there is a Scheme of Delegation, Financial Procedural Notes and locally generated rules and instructions. Collectively these must comprehensively cover all aspects of financial management and control. They set the business rules which directors and employees (including employees of third parties contracted to the Trust) must follow when taking action on behalf of the Board.

Andrew Grimshaw Director of Finance
September 2014

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1. **INTRODUCTION**

1.1 **GENERAL**

1.1.1 These Standing Financial Instructions (SFIs) are issued in accordance with the Financial Directions issued by the Secretary of State under the provisions of Sections 99(3), 97(A)(4) and (7) of the National Health Service Act 1977; National Health Service and Community Care Act 1990 and other acts relating to the National Health Service or in the Financial Regulations made under the Acts for the regulation of the conduct of London Ambulance Service NHS Trust (the Trust) in relation to all financial matters. They shall have effect as if incorporated in the Standing Orders of the Trust.

1.1.2 The Bribery Act 2010, which repeals existing corruption legislation, has introduced the offences of offering and receiving a bribe. It also places specific responsibility on organisations to have in place sufficient and adequate procedures to prevent bribery and corruption taking place. Under the Act, Bribery is defined as "Inducement for an action which is illegal unethical or a breach of trust. Inducements can take the form of gifts loans, fees rewards or other privileges". Corruption is broadly defined as the offering or the acceptance of inducements, gifts or favours payments or benefit in kind which may influence the improper action of any person; corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another. To demonstrate the organisation has sufficient and adequate procedures in place and to demonstrate openness and transparency, all staff are required to comply with the requirements of Standing Financial Instructions.

1.1.3 The Fraud Act 2006 (the Act) came into force on 15 January 2007 and applies in England, Wales and Northern Ireland.

The Act repealed the following offences:

- (i) Theft Act 1968
 - Section 15 (obtaining property by deception);
 - Section 15A (obtaining a money transfer by deception);
 - Section 16 (obtaining a pecuniary advantage by deception);
 - Section 20(2) (procuring the execution of a valuable security by deception);
 - Reference to "cheat" in Section 25 (going equipped).
- (ii) Theft Act 1978
 - Section 1 (obtaining services by deception);
 - Section 2 (evasion of liability by deception).
- (iii) These offences continue to apply for any offences committed before 15 January 2007.
- (iv) Section 1 of the Fraud Act 2006 creates a general offence of fraud and introduces three ways of committing it set out in Sections 2, 3 and 4.
 - Fraud by false representation (Section 2);
 - Fraud by failure to disclose information when there is a legal duty to do so (Section 3); and
 - Fraud by abuse of position (Section 4).
- (v) In each case:
 - the defendant's conduct must be dishonest;
 - his/her intention must be to make a gain; or cause a loss or the risk of a loss to another.

- No gain or loss needs actually to have been made.
 - The maximum sentence is 10 years' imprisonment.
- 1.1.4 These SFIs detail the financial responsibilities, policies and procedures to be adopted by the Trust. They are designed to ensure that its financial transactions are carried out in accordance with the law and Government policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the Standing Orders and Scheme of Delegation adopted by the Trust.
- 1.1.5 These SFIs identify the financial responsibilities which apply to everyone working for the Trust. They do not provide detailed procedural advice. These statements should therefore be read in conjunction with the detailed departmental financial procedure notes. All financial procedures must be approved by the Director of Finance.
- 1.1.6 Should any difficulties arise regarding the interpretation or application of any of the SFIs, the advice of the Director of Finance must be sought before action is taken. The user of these SFIs should also be familiar with and comply with the provisions of the Trust's Standing Orders.
- 1.1.7 Failure to comply with SFIs and Standing Orders is a disciplinary matter that could result in dismissal.
- 1.1.8 Overriding Standing Financial Instructions – if for any reason these Standing Financial Instructions are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance shall be reported to the next formal meeting of the Audit Committee for referring action or ratification. All members of the Board and staff have a duty to disclose any non-compliance with these Standing Financial Instructions to the Director of Finance as soon as possible.
- 1.1.9 For a more detailed explanation see the Trust's Anti-Fraud Policy and Anti-Bribery Policy. Should members of staff wish to report any concerns or allegations, they should contact their Local Counter Fraud Specialist
- 1.2 **TERMINOLOGY**
- 1.2.1 Any expression to which a meaning is given in Health Service Acts, or in the Financial Directions made under the Acts, shall have the same meaning in these instructions; and
- (a) "Trust" means the London Ambulance Service NHS Trust;
 - (b) "Board" means the Board of the Trust;
 - (c) "Budget" means a resource, expressed in financial terms, proposed by the Trust for the purpose of carrying out, for a specific period, any or all of the functions of the Trust;
 - (d) "Chief Executive" means the chief officer of the Trust;
 - (e) "Director of Finance" means the chief financial officer of the Trust;

- (f) “Budget Holder” means the director or employee with delegated authority to manage finances and resources for a specific area of the organisation; and
- (g) “Legal Adviser” means the properly qualified person appointed by the Trust to provide legal advice.
- (h) A Service Level Agreement (SLA) is a part of a service contract where the level of service is formally defined. In practice, the SLA is used to refer to the contracted service and performance when referring to the third party or host.
- (i) Key Performance Indicator is a specific indicator embedded into the SLA as a measurement to monitor the performance.
- (j) “Shared Service” is the host/third party who will provide the outsourced Services Contract and overarching SLA with the Trust.

1.2.2 Wherever the title Chief Executive, Director of Finance, or other nominated officer is used in these instructions, it shall be deemed to include such other director or employees who have been duly authorised to represent them, subject to the Scheme of Delegation.

1.2.3 Wherever the term “employee” is used, it shall be deemed to include employees of third parties contracted to the Trust when acting on behalf of the Trust.

1.3 RESPONSIBILITIES AND DELEGATION

1.3.1 The Board exercises financial supervision and control by:

- (a) formulating the financial strategy;
- (b) requiring the submission and approval of budgets within approved allocations/overall income;
- (c) defining and approving essential features in respect of important procedures and financial systems (including the need to obtain value for money); and
- (d) defining specific responsibilities placed on directors and employees as indicated in the Scheme of Delegation Document (EL(94)40 refers)
- (f) defining specific contractual responsibilities placed on Shared Services as indicated in the Scheme of Delegation Document (EL(94)40 refers)

1.3.2 The Board will delegate responsibility for the performance of its functions in accordance with the Scheme of Delegation Document adopted by the Trust.

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

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

1.3.5 It is a duty of the Chief Executive to ensure that existing directors and employees and all new appointees are notified of and put in a position to understand their responsibilities within these instructions.

1.3.6 **The Director of Finance** is responsible for:

- (a) implementing the Trust's financial policies and for co-ordinating any corrective action necessary to further these policies;
- (b) maintaining an effective system of internal financial control including ensuring that detailed procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions;
- (c) ensuring that sufficient records are maintained to show and explain the Trust's transactions, in order to disclose, with reasonable accuracy, the financial position of the Trust at any time;
- (d) and, without prejudice to any other functions of directors and employees to the Trust, the duties of the Director of Finance include:
- (e) the provision of financial advice to the Trust, its directors and employees;
- (f) the design, implementation and supervision of systems of financial control;
- (g) 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.
- (h) Where management and processing of transactions is delegated to a Shared Financial Service, the Director of Finance or their nominated representative shall ensure that there are proper arrangements for procedures, records and reports as the Trust may require for the purpose of carrying out its statutory duties including appropriate internal audit arrangements.
- (i) overseeing the Anti-Fraud arrangements

1.3.7 **All board members and employees**, severally and collectively, are responsible for:

- (a) the security of the property of the Trust;
- (b) avoiding loss;
- (c) exercising economy and efficiency in the use of resources; and
- (d) conforming with the requirements of Standing Orders, Standing Financial Instructions, Financial Procedures and the Scheme of Delegation.

1.3.8 **Any contractor or employee of a contractor** who is empowered by the Trust, in writing, 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 Officer to ensure that such persons are made aware of this.

1.3.9 For any and all board members and employees who carry out financial functions, the form in which financial records are kept and the manner in which board members and employees discharge their duties must be to the satisfaction of the Director of Finance.

2. **AUDIT**

2.1 **AUDIT COMMITTEE**

2.1.1 In accordance with Standing Orders, the Board shall formally establish an Audit Committee, with clearly defined terms of reference and following guidance from the NHS Audit Committee Handbook (2011), which will provide an independent and objective view of internal control by:

- (a) overseeing Internal and External Audit services;
- (b) reviewing financial and information systems and monitoring the integrity of the financial statements and reviewing significant financial judgements;
- (c) Review the establishment and maintenance of an effective system of integrated governance, risk management and internal control, across the whole of the organisation's activities (both clinical and non-clinical), that supports the achievement of the organisation's objectives;
- (d) monitoring compliance with Standing Orders and Standing Financial Instructions;
- (e) Reviewing schedules of losses and compensations and making recommendations to the Board;
- (f) Reviewing the arrangements in place to support the Assurance Framework process prepared on behalf of the Board and advising the Board accordingly.

2.1.2 Where the Audit Committee feel there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters that the Committee wishes to raise, the chairman of the Audit Committee should raise the matter at a full meeting of the Board. Exceptionally, the matter may need to be referred to the Department of Health (to the Director of Finance in the first instance).

2.1.3 It is the responsibility of the Director of Finance to ensure an adequate internal audit service is provided and the Audit Committee shall be involved in the selection process when an internal audit service provider is changed.

2.2 **DIRECTOR OF FINANCE**

2.2.1 The Director of Finance is responsible for:

- (a) ensuring there are arrangements to review, evaluate and report on the effectiveness of internal financial control including the establishment of an internal audit function;
- (b) ensuring that the internal audit is adequate and meets the NHS mandatory audit standards;
- (c) deciding at what stage to involve the Police in cases of misappropriation and other irregularities not involving fraud or corruption;

In the case of Shared Financial Services, the Director of Finance shall ensure an adequate Internal Audit Service is specified in any contractual agreement between the Trust and the Shared Financial Service provider, and shall specify the assurance arrangements between the Internal and External Auditors for the Trust and the Shared Financial Services' Auditors.

- (d) ensuring that an annual audit report is prepared for consideration by the Audit Committee and the Board. The report must cover:
 - (i) a clear opinion on the effectiveness of internal control measures in accordance with current assurance framework guidance issued by the Department of Health including for example compliance with control criteria and standards;
 - (ii) progress against the annual work plan for the Audit Committee;
 - (iii) major internal financial control weaknesses discovered;
 - (iv) progress in the implementation of internal audit recommendations;
 - (v) strategic audit plan covering the coming three years;
 - (vi) a detailed plan for the coming year.
- (e) deciding at what stage to involve the Police, following consultation with the Local Security Management Specialist (LSMS), in cases of misappropriation and other irregularities not involving fraud or corruption;

2.2.2 The Director of Finance, LCFS or designated auditors are entitled without necessarily giving prior notice to require and receive:

- (a) access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;
- (b) access at all reasonable times to any land, premises or employee of the Trust;
- (c) the production of any cash, stores or other property of the Trust under a member of the Board and an employee's 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 the Department of Health.

2.3.2 The plan of work for Internal Audit should be reviewed and approved by the Audit Committee at the beginning of each financial year. This plan should be drawn up with full consideration of all risks as detailed within the risk register.

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

2.3.4 The Head of Internal Audit will normally attend Audit Committee meetings and has a right of access to all Audit Committee Members, the Chairman and Chief Executive of the Trust .

2.3.5 The Head of Internal Audit shall be accountable to the Director of Finance. The reporting system for internal audit shall be agreed between the Director of Finance, the Audit Committee and the Head of Internal Audit. The agreement shall be in writing and shall comply with the guidance on reporting contained in the NHS Internal Audit Standards. The reporting system shall be reviewed at least every three years.

2.3.6 In obtaining third party assurance from other Auditors, in relation to Shared Financial Services' Auditors, the Head of Internal Audit should follow the assurance guidance of the Internal Audit Practitioners Group (IAPG).

2.4 FRAUD AND CORRUPTION

2.4.1 In line with their responsibilities, the Trust Chief Executive and Director of Finance shall monitor and ensure compliance with the NHS Standard Contract (National Commissioning Contract) directions on fraud and corruption. This document should be read in conjunction with the Anti-Fraud Policy and Anti-Bribery Policy.

Anti-Fraud Arrangements - any person who dishonestly makes a false representation to make a gain for himself or another or dishonestly fails to disclose to another person, information which he is under a legal duty to disclose, or commits fraud by abuse of position, including any offence as defined in the Fraud Act 2006.

Anti-Bribery Policy - On 1st July 2011 the Bribery Act 2010 came into force. The Act creates four distinct offences:

- Organisations negligently failing to prevent a bribe.
- Bribery which occurs abroad by an organisation which is 'ordinarily resident' in the UK.
- Offering/agreeing to accept a bribe is an offence even if no money/goods have been exchanged.
- A key part of the legislation is the offence of 'bribing a foreign official.'

The ability to prosecute those who commit bribery abroad should help to eradicate bribery from the UK.

The potential penalties are: debarment from public procurement contracts, an unlimited fine and reputational damage.

- 2.4.2 The Trust shall nominate a suitable person to carry out the duties of the Local Anti-Fraud Specialist (LAFS) as specified by the NHS Counter Fraud and Corruption Manual and guidance.
- 2.4.3 The Local Anti-Fraud Specialist will provide a written report, at least annually, on counter fraud work within the Trust.
- 2.4.4 Shared Financial Services should also be party to this report and as per the contractual agreement between the Shared Financial Services and the Trust be maintaining an Anti-Fraud and Corruption procedures internally, that on request should be visible to auditors.
- 2.4.5 Shared Financial Service providers under their contractual terms and conditions also require the Local Anti-Fraud Specialist to report to the Trust's Director of Finance in accordance with the NHS Counter Fraud and Corruption Manual.
- 2.4.6 The Trust has an Anti-Fraud Policy which is available on the intranet site.

2.5 **EXTERNAL AUDIT**

- 2.5.1 The external auditor is appointed by the Audit Commission and paid for by the Trust. The Audit Committee must ensure a cost efficient external audit service. If there are any problems relating to the service provided by the External Auditor, this should be raised with the external auditor and referred to the Audit Commission if the issue cannot be resolved.

3. **SECURITY MANAGEMENT**

- 3.1 In line with their responsibilities, the Trust Chief Executive will monitor and ensure compliance with Directions set out in the NHS Standard Contract (National Commissioning Contract) on NHS Protect
- 3.2 The Trust shall nominate a suitable person to carry out the duties of the Local Security Management Specialist (LSMS) as set out in the NHS Standard Contract (National Commissioning Contract) guidance on NHS Protect.
- 3.3 The Trust shall nominate a Non-Executive Director to be responsible to the Board for NHS Protect. The above should also be synergized by Shared Financial Services as part of their internal procedures and policies

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

4. RESOURCE LIMIT CONTROL

4.1 Not applicable to NHS Trusts.

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

5.1 Preparation and approval of service plans and budgets

5.1.1 The Board must ensure that there is an approved annual business plan before the commencement of each financial year. The Chief Executive will compile and submit to the Board an Annual Business Plan which takes into account financial targets and forecast limits of available resources. The Annual Business Plan will contain:

- (a) aims and objectives;
- (b) a statement of the significant assumptions on which the plan is based;
- (c) details of major changes in workload, delivery of services or resources required to achieve the plan;
- (d) the individual and collective responsibilities of directors.

5.1.2 Prior to the start of the financial year the Director of Finance will, on behalf of the Chief Executive, prepare and submit the Integrated Financial Plan (comprising revenue income & expense and capital expenditure & disposals) for approval by the Board. Such budgets will:

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

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

5.1.4 All budget holders must provide information as required by the Director of Finance to enable budgets to be compiled.

5.1.5 All budget holders will sign up to their allocated budgets at the commencement of each financial year.

5.1.6 The Director of Finance has a responsibility to ensure that adequate training is delivered on an on-going basis to budget holders to help them manage successfully.

5.2 BUDGETARY DELEGATION

5.2.1 The Chief Executive may delegate the management of a budget to permit the performance of a defined range of activities. This delegation must be in writing, in the Scheme of Delegation, and be accompanied by clear definitions of:

- (a) the amount of the budget;
- (b) the purpose(s) of each budget heading;
- (c) individual and group responsibilities;
- (d) authority to exercise virement;
- (e) achievement of planned levels of service; and
- (f) the provision of regular reports.

5.2.2 The Chief Executive and delegated budget holders must not exceed the budgetary total or virements limits set by the Board.

5.2.3 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.

5.2.4 Non-recurring budgets should not be used to finance recurring expenditure without the authority in writing of the Chief Executive, as advised by the Director of Finance.

5.3 BUDGETARY CONTROL AND REPORTING

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

- (a) monthly financial reports to the Board in a form approved by the Board containing:
 - (i) income and expenditure to date showing trends and forecast year-end position;
 - (ii) data correlating financial, establishment and activity trends;
 - (iii) movements in working capital;
 - (iv) movements in cash and capital;
 - (v) capital project spend, including commitments, and projected outturn against plan;
 - (vi) explanation of any material variances from plan;
 - (vii) details of any corrective action where necessary and the Chief Executive's and/or Director of Finance's view of whether such actions are sufficient to correct the situation;
- (b) the issue of timely, accurate and comprehensive 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.

5.3.2 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;
- (b) any potential underspend is highlighted to the Director of Finance (for virement if necessary);
- (c) 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; and
- (d) no permanent employees are appointed without the approval of the Director of Support Services and the Director of Finance other than those provided for within the available resources and in the budgeted establishment as approved by the Board. Permanent employees must be appointed against recurrent income.

5.3.3 The Chief Executive is responsible for identifying and implementing cost improvements and income generation initiatives in accordance with the requirements of the Annual Business Plan and a balanced budget.

5.4 **CAPITAL EXPENDITURE**

5.4.1 The general rules applying to delegation and reporting shall also apply to capital expenditure.

5.5 **MONITORING RETURNS**

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

6 **ANNUAL ACCOUNTS AND REPORTS**

6.1 The Director of Finance, on behalf of the Trust , will:

- (a) prepare financial returns for the Trust, in accordance with the accounting policies and guidance given by the Department of Health and the Treasury, the Trust's accounting policies, and generally accepted accounting principles;
- (b) prepare, certify and submit annual financial reports to the Department of Health for each financial year in accordance with current guidelines; and
- (c) submit financial returns to the Department of Health for each financial year in accordance with the timetable prescribed by the Department of Health.

6.2 The Trust's annual accounts must be audited by an auditor appointed by the Audit Commission. The Trust's Audited Annual Accounts must be presented to a public meeting and made available to the public.

6.3 The Trust will publish an Annual Report, in accordance with guidelines on local accountability, and present it at a public meeting. The document will comply with the Department of Health's NHS Manual for Accounts. The document will include inter alia:

- (a) the Annual Accounts of the Trust;
- (b) details of relevant directorships and other significant interests held by Board members, as defined in Standing Orders;
- (c) composition of the Remuneration and Nominations Committee;
- (d) remuneration of the chairman, highest paid Director, and other Directors and highly paid employees, in accordance with guidance relating to the NHS.

7. COMMERCIAL BANK ACCOUNTS AND GOVERNMENT BANKING SERVICE ACCOUNTS

7.1 GENERAL

7.1.1 The 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/Directions issued from time to time by the NHS and the Department of Health. In line with 'Cash management in the NHS' Trusts should minimise the use of commercial banks accounts and maximise the use of the Government Banking Service.

7.1.2 The Board shall approve the banking arrangements.

7.2 BANK ACCOUNTS

7.2.1 The Director of Finance is accountable for:

- (a) Commercial bank accounts and Government Banking Service Accounts;
- (b) establishing separate bank accounts for the Trust's non-exchequer funds;
- (c) ensuring payments made from bank accounts do not exceed the amount credited to the account except where arrangements have been made; and
- (d) reporting to the Board all arrangements made with the Trust's bankers for overdraft facilities;
- (e) monitoring compliance with DH guidance on the level of cleared funds.
- (f) Where an agreement is entered into with the Shared Financial Services for payment to be made on behalf of the Trust from bank accounts maintained on behalf of the Trust, or by Electronic Funds Transfer (BACS), the Director of Finance shall ensure that satisfactory security regulations of Shared Financial Services relating to bank accounts exist and are observed. This is specified in a Contractual Agreement between the Shared Financial Services and the Trust.

7.3 BANKING PROCEDURES

7.3.1 The Director of Finance will prepare detailed instructions on the operation of bank accounts which must include:

- (a) the conditions under which each bank account is to be operated;
- (b) the limit to be applied to any overdraft; and
- (c) those authorised to sign cheques or other orders drawn on the Trust's accounts.

7.3.2 The Director or Finance must advise the Trust's bankers in writing of the conditions under which each account will be operated.

7.3.3 The Director of Finance may delegate these written instructions to a Shared Financial Services provider under contractual agreement with the Trust.

7.4 TENDERING AND REVIEW

7.4.1 The 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 banking business.

7.4.2 Competitive tenders should be sought at least every five years. The results of the tendering exercise should be reported to the Board. This review is not necessary with Government Banking Service accounts.

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

8.1 INCOME SYSTEMS

8.1.1 The 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.

8.1.2 The Director of Finance is also responsible for the prompt banking of all monies received.

8.1.3 The Director of Finance may delegate the above activities as part of a Shared Financial Service under contractual agreement with the Trust.

8.2 FEES AND CHARGES

8.2.1 The Trust shall follow Department of Health's advice in the 'costing' manual in setting prices for NHS service agreements.

8.2.2 The Director of Finance is responsible for approving and regularly reviewing the level of all fees and charges other than those determined by the Department of Health or by Statute. Independent professional advice on matters of valuation shall be taken as necessary.

8.2.3 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 for the NHS (2000) shall be followed.

8.2.4 All employees must inform the Director of Finance promptly of money due arising from transactions which they initiate/deal with, including all contracts, leases, tenancy agreements, private patient undertakings and other transactions. Employees must ensure approval is obtained on sales and goods from the Director of Finance

8.3 **DEBT RECOVERY**

8.3.1 The Director of Finance is responsible for the appropriate recovery action on all outstanding debts.

8.3.2 Income not received should be dealt with in accordance with losses procedures. The Director of Finance may delegate responsibility for ensuring that the Shared Financial Services take appropriate recovery action on all outstanding debts. This would be specified in the contractual agreement between both parties.

8.3.3 Overpayments should be detected (or preferably prevented) and recovery initiated. Overpayments will be reviewed in order that procedures are introduced to prevent recurrence.

8.4 **SECURITY OF CASH, CHEQUES AND OTHER NEGOTIABLE INSTRUMENTS**

8.4.1 The Director of Finance is responsible for ensuring delegated arrangements via contractual Shared Financial Services for:

- (a) approving the form of all receipt books, agreements forms, or other means of officially acknowledging or recording monies received or receivable;
- (b) ordering and securely controlling any such stationery; Banking stationery shall be handed over to the Shared Financial Services who will, on behalf of the Trust , become the custodian of all visible audit of this and will be monitored in accordance with the contractual agreement between the Trust and the Shared Financial Services and physical signatures required.
- (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; and
- (d) prescribing systems and procedures for handling cash and negotiable securities on behalf of the Trust .

8.4.2 Official money shall not under any circumstances be used for the encashment of private cheques.

8.4.3 All cheques, postal orders, cash, etc., shall be banked intact. Disbursements shall not be made from cash received, except under arrangements approved by the Director of Finance.

8.4.4 The holders of safe keys shall not accept unofficial funds for depositing in their safes unless, exceptionally, 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. The Director of Finance may delegate the above activities as part of a Shared Financial Service under contractual agreement with the Trust.

9 TENDERING AND CONTRACT PROCEDURE

9.1 DUTY TO COMPLY WITH STANDING ORDERS

9.1.1 The Trust shall ensure that the appropriate procurement route is selected for:

- (a) the supply of goods, materials and manufactured articles;
- (b) The rendering of services including all forms of management consultancy services (other than specialised services sought from or provided by the DH);
- (c) the design, construction and maintenance of buildings and engineering works (including construction and maintenance of grounds and gardens);
- (d) Disposals.

9.1.2 Every contract, whether made by the Trust, or by a committee of the Trust or by a nominated officer to whom the power of making contracts shall have been delegated, shall comply with these Standing Orders and, unless the Board has resolved to do otherwise in advance and on a per project/procurement basis, with any extant Departmental guidance. Where the Board makes such a resolution then it shall take precedence over any provisions to the contrary in these Standing Orders. Copies of such guidance documents can be obtained for reference purposes from either the Director of Finance. No exception from any of the following provisions of these Standing Orders shall be made other than by direction of the Board.

9.1.3 All companies entering into contracts with the Trust must provide a minimum of Full name; Company Registration number; and Company Registered Address and any separate principal trading addresses.

- (i) Additionally, for unquoted companies, the Trust may require some or all of the following information:
Names of all directors; Names of beneficial owners or those with significant influence over the business and its assets, with particular attention paid to any significant shareholders.
- (ii) For group companies the Trust may need to understand the structure of the group and identify any beneficial owner of the ultimate parent.
- (iii) The Trust should verify the existence of the company from either:
 - confirmation of the company's listing on a regulated market;
 - or a search of the relevant company registry;
 - or by obtaining a copy of the company's certificate of incorporation.
- (iv) Enquiries should be made to ensure that the company has not been, or is not in the process of being, dissolved, struck off, wound up or terminated.
- (v) The Trust should consider whether there is evidence that the business is well known, reputable and of long standing, and document this evidence.

- (iv) If the Trust becomes aware of changes to the company's structure or ownership, or if suspicions are aroused by a change in the nature of the business transacted, further checks should be made to ascertain the reason for the changes.

9.1.4 The Trust shall comply as far as is practical with the requirements of the Department of Health and NTDA guidance in respect of capital investment and estate and property transactions. In the case of management consultancy contracts the Trust shall comply as far as is practicable with Department of Health guidance.

9.2 EU DIRECTIVES

9.2.1 Directives by the Council of the European Union (EU) as incorporated by the UK Public Sector Contract Regulations prescribing procedures for awarding contracts for services, building and engineering works and for the supply of goods, materials and manufactured articles (hereafter referred to as goods and services) shall have effect as if incorporated in these Standing Orders and shall apply throughout.

9.2.2 The EU public procurement thresholds represent contractual value levels above which public authorities must follow EU procedural rules with regard to the issuing of contracts.

9.2.3 Value is defined as the total consideration excluding VAT that is to be paid over the lifetime of the contract or, if the lifetime is not defined, it is taken to be the equivalent of 48 months' spend. Reference must be made to extant EU procurement thresholds.

9.2.4 Where the contract includes options, the value of these options must be taken into account in determining whether the threshold has been reached. In the case of contracts for lease, rental or hire purchase, the relevant figure is the aggregate of the consideration that will be paid throughout the duration of the contract. Where the term exceeds 12 months the estimated residual value must also be included. Where the duration is indefinite or uncertain, the relevant figure is the monthly contract value multiplied by 48. In the case of regular or renewable contracts the relevant figure is either the aggregate of the consideration to be paid during the anticipated duration of the contract (or over the first 12 months if the duration is indefinite) or the consideration paid by the buyer under similar contracts for goods of the same type during the preceding 12 months (adjusted for any expected changes), whichever is the more appropriate. A single contract providing for a regular supply over a period of time and a series of separate contracts concluded over a period of time for the same type of goods are both regarded as 'regular' contracts for these purposes.

9.3 PROCUREMENT FRAMEWORK

9.3.1 Standard Procurement Method

9.3.1.1 The Trust's standard method of procurement shall be through competition in the open marketplace. However, as detailed below, the Trust's standard method of procurement shall be affected by the monetary value of the goods and services being procured.

9.3.2 Purchases below £3,000

9.3.2.1 Wherever possible the goods and services being purchased shall be joined together so that the value shall exceed £3,000.

9.3.2.2 Purchases shall be made from the Trust's online catalogues or by obtaining a written or verbal quotation from a supplier.

9.3.3 Non-Estates Purchases between £3,000 and £25,000

9.3.3.1 Competing quotations shall be sought, unless the purchase is made through an existing Trust contract. Refer to paragraph 9.4.

9.3.3.2 Non-estates purchases are goods and services other than purchases relating to building and engineering works as defined within the EU Public Procurement Regulations Works contracts.

9.3.4 Non-Estates Purchases above £25,000

9.3.4.1 Competitive tendering shall be conducted by the Trust's Procurement Department. Refer to paragraph 9.5.

9.3.4.2 Non-estates purchases are goods and services other than purchases relating to building and engineering works as defined within the EU Public Procurement Regulations Works contracts.

9.3.5 Non-Estates Purchases above the EU Tender Threshold

9.3.5.1 Competitive tendering in compliance with the EU Procurement Regulations shall be conducted by the Trust's Procurement Department. Refer to paragraph 9.5.

9.3.5.2 Non-estates purchases are goods and services other than purchases relating to building and engineering works as defined within the EU Public Procurement Regulations Works contracts.

9.3.6 Estates Purchases between £3,000 and £100,000

9.3.6.1 Competing quotations shall be sought unless the purchase is made through an existing Trust contract. Refer to paragraph 9.4.

9.3.6.2 Estates purchases relate to building and engineering works as defined within the EU Public Procurement Regulations Works contracts.

9.3.7 Estates Purchases above £100,000

9.3.7.1 Competitive tendering shall be conducted by the Trust's Estates Department in conjunction with the Trust's Procurement Department requirements. Refer to paragraph 9.5.

9.3.7.2 Estates purchases relate to building and engineering works as defined within the EU Public Procurement Regulations Works contracts.

9.3.8 Estates Purchases above the EU Tender Threshold

9.3.8.1 Competitive tendering in compliance with the EU Procurement Regulations shall be conducted by the Trust's Estates Department. Refer to paragraph 9.5.

9.3.8.2 Estates purchases relate to building and engineering works as defined within the EU Public Procurement Regulations Works contracts.

9.4 COMPETING QUOTATIONS

9.4.1 For non-Estates purchases between £3,000 and £25,000 and Estates purchases below £100,000 which are not purchased through an existing Trust contract, competing quotations shall be obtained in writing.

9.4.2 In circumstances where it is not possible to obtain three competing quotations in writing, a file note of three competing quotations secured via telephone shall be maintained as a minimum.

9.4.3 The value of contracts allocated without formal competitive tendering shall not exceed £25,000 in the case of non-Estates goods or services or £100,000 in the case of Estates purchases (as detailed in paragraph 9.5.1).

9.4.4 A minimum of three competing quotations shall be invited in writing. Where this is not possible the Director of Finance shall be informed, in writing, of the reasons for and the outcome of the limited quotations. A copy of the written record shall also be retained by the Director of Finance along with the associated project working papers.

9.5 COMPETITIVE TENDERING

9.5.1 The Board shall ensure that competitive tenders are invited for:

- (a) the supply of goods with a monetary value in excess of £25,000;
- (b) the supply of materials and manufactured articles with a monetary value in excess of £25,000;
- (c) the rendering of services, including consultancy costs, with a monetary value in excess of £25,000;
- (d) building and engineering works as defined within the EU Public Procurement Regulations Works contracts, with a monetary value in excess of £100,000;

- (e) for fee bids which take price into consideration for disposals and for all other projects.

9.5.3 Competitive tendering is not required:

- a) where the goods or services can be obtained through an existing Trust contract.
- b) The goods or services can be obtained through a pre-tested competitive framework or catalogue arrangement to which the Trust has legitimate access and meets the requirements of EU Public Procurement Regulations.

9.5.4 The Trust shall ensure that invitations to tender are advertised in a manner that allows any interested suppliers to apply to tender in order to provide fair and adequate competition.

9.5.5 When shortlisting suppliers to be invited to tender, the Trust shall consider amongst other factors

- a) their financial stability
- b) their experience to date
- c) references
- d) the capacity of the suppliers to supply the goods or materials or to undertake the services or works required.

9.5.6 The Trust may, from time to time, use framework agreements as an alternative procurement route to a full invitation to tender process. Any frameworks used

- (a) must have been advertised in the Official Journal of the European Union
- (b) have provision for the Trust to utilise them and
- (c) the resulting framework agreement must have been awarded in full compliance with EU Procurement Regulations.

9.5.7 When a framework agreement is used, the Trust will either

- (a) conduct a further competition to select the preferred bidder, or
- (b) use the direct award process (where pricing is disclosed upfront and the preferred bidder is selected on lowest price).

9.5.8 The use of a framework agreement is considered to be competitive tendering. Any references throughout this document to 'invitations to tender', 'tenders', 'tendering' etc. shall be interpreted to include and apply to further competitions conducted under framework agreements and direct contract awards made under framework agreements.

9.6 EXCEPTIONS TO TENDERING (SINGLE SOURCING WAIVER)

9.6.1 Competitive tendering may be waived under the following circumstances:

- (a) as provided for under paragraphs 9.6.3 and 9.6.6 and 9.13 (Disposals).
- (b) where so provided in DH and NTDA guidance.

- (c) The timescale genuinely precludes competitive tendering. Failure to plan the work properly is not a justification for single tender.
- (d) the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;
- (e) there is a clear benefit to be gained from maintaining continuity with an earlier project. However in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering.
- (f) where in the opinion of the Chief Executive and the Director of Finance, the estimated expenditure or income would not warrant formal tendering procedures, or competition would not be practicable taking into account all the circumstances.
- (g) the supply of proprietary or other goods and the rendering of services where such goods or services are of a special or unique character, for which, in the opinion of the Chief Executive and the Director of Finance it is neither possible nor desirable to purchase through competitive tendering.
- (g) the supply of goods or manufactured articles of any kind which, in the opinion of the Chief Executive and the Director of Finance are required quickly for the continuance of the provision of the service provided by the Trust and are not obtainable under existing contracts.

9.6.2 In the event of any of the above referenced circumstances where competitive tendering is waived, the reasons shall be set down in a permanent and signed record. The signed record shall be retained with the associated project working papers and the original signed record shall be retained by the Director of Corporate Affairs/Trust Secretary.

9.6.3 The provisions of this paragraph apply where EU procurement regulations have been satisfied.

9.6.4 Where it is proposed that competitive tendering shall be waived and single tender action is being proposed, the relevant Director shall provide detailed information in writing regarding:

- (a) the justification for single tender action;
- (b) compliance with public procurement regulations (EU Directives);
- (c) the possible effects of not seeking competitive tenders; and
- (d) value for money.

9.6.5 Where it is proposed that competitive tendering shall be waived, the information (as detailed in paragraph 9.6.4) shall be presented to the Head of Procurement or the Director of Finance as appropriate. The Director of Finance shall seek further authorisation from the Chief Executive for waiving of tenders over £500,000. Where the Head of Procurement, the Director of Finance and/or the Chief Executive approve the waiving of competitive tendering, the relevant record (as detailed in paragraph 9.6.4) shall be authorised. Where the approval to waive

competitive tendering is authorised, such decisions shall be reported by the Director of Finance to the Trust's Audit Committee.

9.6.6 The authorisation to waive competitive tendering shall be given as follows:-

Value of Tender to be Waived	Authorisation
Non-EU Tenders	Head of Procurement
EU Tenders	Director of Finance (+ CEO if > £500k)

9.7 INVITATIONS TO TENDER

9.7.1 All invitations to tender shall be in compliance with these Standing Orders and be submitted in either:

- (a) hard copy; or
- (b) electronically using the Trust's e-tendering portal.

9.7.2 For hard copy tender returns it will be stated that no tender shall be accepted unless it is submitted in either the special envelope/package provided by the Trust or a plain, sealed envelope/package bearing the word "Tender" followed by the subject to which it relates and the latest date and time for receipt of such tender.

9.7.3 For electronic returns the 'Sealed' option for viewing responses shall be used.

9.7.4 Every tender for goods, materials, services or disposals shall embody the NHS Standard Contract Conditions that the tender shall be awarded under, unless a framework agreement is used, in which case the framework agreement terms and conditions shall prevail.

9.7.5 Every tender for building and engineering work, except any tender for maintenance work only (where DH and NTDA guidance shall be followed), shall be in the terms of the current editions of the Appropriate Standard Forms of Contract. Where appropriate, these base documents shall be modified and amplified to accord with extant DH and NTDA guidance and other instructions and, in minor respects, to cover special features of individual projects.

9.7.6 All invitations to tender shall state in the invitation to tender that no tender shall be accepted unless it includes details of at least three recent referees who can be contacted to provide information on the technical and organisational competence of the tenderer, and the latest set of published financial statements of the tenderer.

9.7.7 All invitations to tender shall require tenderers to submit prices exclusive of VAT where applicable

9.7.8 All persons involved in a tender evaluation are required to provide a written declaration that their involvement in the tender evaluation poses no conflict of interest.

9.8 RECEIPT AND SAFE CUSTODY OF TENDERS

- 9.8.1 The Director of Corporate Affairs/Trust Secretary shall be responsible for the receipt, endorsement and recording of competitive tenders in the competitive tendering register and, for hard copy tender returns, for the safe custody of tenders received until the time appointed for their opening.
- 9.8.2 The competitive tendering register shall be in the form of a bound book with pre-numbered pages. For reference purposes, an example of the type of information held within the competitive tendering register has been included as Appendix A.
- 9.8.3 The date and time of receipt of each tender shall be endorsed by the Director of Corporate Affairs/Trust Secretary on the unopened tender envelope/package and recorded in the appropriate register (as detailed in paragraph 9.8.2).
- 9.8.4 For electronic tender returns, tenders may not be 'opened' or supplier information viewed until the pre-defined time and date for opening has passed.

9.9 OPENING TENDERS

- 9.9.1 As soon as practicable after the date and time stated as being the latest time for the receipt of tenders, tender returns shall be opened by or in the presence of two senior officers/managers designated by the Chief Executive, one of whom shall be an Executive Director.
- 9.9.2 For any tenders with a value greater than £1 million, the tenders must be opened in the presence of an additional Executive Director
- 9.9.3 All Executive Directors and members of the Trust Board will be authorised to open tenders regardless of whether they are from the originating department provided that the other authorised person opening the tenders with them is not from the originating department.
- 9.9.4 All eligible tenders received shall be opened on one and the same occasion.
- 9.9.5 Every hard copy tender received shall be endorsed with the date of opening and initialled by two persons present at the opening
- 9.9.6 A record of the opening of the tenders shall be maintained in the appropriate register (as detailed in paragraph 9.8.2). The record is to be signed by the two persons present at the opening of the tenders, in accordance with paragraph 9.9.3 as appropriate. The record shall show for each set of competitive tenders:
- (a) the name of all firms invited to tender;
 - (b) the names of firms from which tenders have been received;
 - (c) the date the tenders were opened;
 - (d) the price tendered (excluding VAT).
- 9.9.7 Except as in paragraph 9.9.8 below, a record shall be retained within the appropriate register (as detailed in paragraph 9.8.2) of apparent price alterations within the tender. The record shall take the form of an addendum to the appropriate register and shall be initialled by at least two of those present at the

opening, signed in accordance with paragraph 9.9.6 as appropriate. The addendum shall detail:

- (a) all price alterations on the tender;
- (b) the final price shown on the tender;
- (c) any letter, document or material enclosed with or accompanying the tender.

9.9.8 A record shall be made in the addendum to the appropriate register (as detailed in paragraph 9.8.2), if the price alterations are so numerous on any one tender as to render the procedure outlined in paragraph 9.9.6 unreasonable in the opinion of the Chief Executive or the Director of Corporate Affairs/Trust Secretary.

9.9.9 All records required to be maintained shall be held in the custody of the Director of Corporate Affairs/Trust Secretary.

9.10 ADMISSIBILITY OF TENDERS

9.10.1 Late tenders shall not be considered, except in exceptional circumstances, and in any event shall only be accepted in compliance with EU and UK legislation, and where appropriate, after seeking legal counsel.

9.11.2 Where such tenders are accepted, a permanent signed record shall be kept of the reasons for their admission, and the signed record shall be retained as an addendum to the appropriate register (as detailed in paragraph 9.8.2).

9.10.3 Amended or re-submitted tenders shall not be considered after the due time for receipt.

9.10.4 Incomplete tenders are those from which information necessary for the adjudication of the tender is missing. These shall be dealt with in accordance with paragraph 9.10.5 to 9.10.7 below.

9.10.5 If it is considered necessary by the Chief Executive or his/her nominated officer to discuss with a tenderer the contents of his/her tender in order to elucidate technical points before the award of a contract, the tender need not be excluded from the adjudication. A record of the nature of the discussion and its outcome shall be kept. For hard copy tenders, the record shall be signed and retained as an addendum to the appropriate register (as detailed in paragraph 9.8.2).

9.10.6 Where the examination of tenders reveals errors which, in the opinion of the Chief Executive or his/her nominated officer, would affect the tender figures, the tenderer is to be given details of such errors and given the opportunity of confirming or withdrawing their offer. In such circumstances, the tender need not be excluded from the adjudication and a record of the nature of the discussions and their outcomes shall be kept. In these circumstances, for hard copy tenders, the record shall be signed and retained as an addendum to the appropriate register (as detailed in paragraph 9.8.2).

9.10.7 While decisions as to the admissibility of late, incomplete or amended tenders are under consideration and while negotiations are in progress or re-tenders are being sought, the tender documents shall be kept strictly confidential and held in safe

custody by the Chief Executive or the Director of Corporate Affairs/Trust Secretary.

9.11 ACCEPTANCE OF TENDERS

9.11.1 Non-Competitive Tenders

9.11.1.1 Where only one tender is sought and/or received the Chief Executive or his/her nominated officers shall, as far as is practicable, determine that the price to be paid is fair and reasonable and keep a signed record of the reasons for this decision. In such circumstances, the signed record is to be retained as an addendum to the appropriate register (as detailed in paragraph 9.8.2).

9.11.1.2 In circumstances where no tender is received by the Trust

(a) For tenders below the EU Tender Threshold the Chief Executive shall empower the Director of Finance or his/her nominated officer to approach suppliers which can provide the relevant goods or services to the Trust. The Director of Finance or his/her nominated officer shall retain a report detailing , in writing:

(i) the content and outcome of their discussions with the approached firms;

(ii) the agreed prices for the provision of the specified goods or services;

(iii) the recommendations as to which firms shall provide the goods or services to the Trust.

(b) For tenders above the EU Tender Threshold, the Director of Finance or his/her nominated officer shall undertake a further procedure in accordance with EU and UK legislation The Director of Finance or his/her nominated officer produce a written report detailing:

(i) the content and outcome of their discussions with the approached firms;

(ii) the agreed prices for the provision of the specified goods or services;

(iii) the recommendations as to which company shall provide the goods or services to the Trust.

9.11.1.3 The Director of Finance shall forward the record (as detailed in paragraph 9.11.1.2) to the Chief Executive or the Trust Board for approval of their recommendations as per the financial limits detailed in the Scheme of Delegation.

9.11.1.4 Where this procedure is adopted, the Director of Finance shall maintain the duly authorised record, and report the decisions made to the Trust's Audit Committee.

9.11.1.5 In circumstances where the Chief Executive or his/her nominated officer determine that the price to be paid is not fair and reasonable, no contract award will be made. If the Trust determines that the goods/services are still required, the process outlined in 9.11.1 to 9.11.1.4 shall be followed.

9.11.2 Basis for Acceptance of a Tender

9.11.2.1 The basis for the acceptance of a tender shall be that which is the Most Economically Advantageous Tender (MEAT) to the Trust and this may be, but is not necessarily, that with the lowest price where payment is made by the Trust.

9.11.2.2 The possible criteria for acceptance of the tender shall be:-

- (i) price
- (ii) quality
- (iii) delivery date
- (iv) cost effectiveness
- (v) aesthetic characteristics
- (vi) functional characteristics
- (vii) technical merit
- (viii) after sales merit
- (ix) technical assistance
- (x) any other relevant criteria.

9.11.2.3 The basis for the acceptance of a hard copy tender shall be kept in a signed record, signed in accordance with paragraph 9.9.5. The signed record shall be retained as an addendum to the appropriate register (as detailed in paragraph 9.8.2).

9.11.3 Tender Other than the Lowest

9.11.3.1 Any tender accepted shall be the most economically advantageous to the Trust, where payment is made by the Trust or have the highest income where payment is received by the Trust.

9.11.3.2 A tender, other than the lowest where payment is to be made by the Trust or the highest where payment is to be received by the Trust, shall only be accepted for good and demonstrable reasons if the Chief Executive or his/her nominated officer so decide and keep a signed record of that decision. This decision shall then be reported to the Trust Board. The original signed record shall be retained with the Trust Board's relevant working documents and a copy shall be retained as an addendum to the appropriate register (as detailed in paragraph 9.8.2).

9.11.4 Financial Competence

9.11.4.1 Any tender or quotation shall only be accepted by the Trust where the Director of Finance is satisfied with the financial competence of the firms involved. Such assurance shall be sought by the use of financial criteria, to be determined as appropriate by the Director of Finance or his/her nominated officer, to analyse the financial information received with the tender documentation, and any other documentation the Director of Finance or his/her nominated officer consider appropriate.

9.11.4.2 In circumstances where the Director of Finance is not satisfied with the financial competence of the firms, the position shall be discussed by the Director of Finance or his/her nominated officer with the firms in an attempt to be satisfied with the tenderer's financial competence on behalf of the Trust.

9.11.4.3 Only where the Director of Finance is satisfied with the financial competence of the firms shall the tender or quotation be assigned to those firms. A permanent,

signed record of the discussions and outcomes shall be retained with the appropriate working papers used to analyse financial competence and retained within the Finance department - where the records can be viewed by appropriate officers of the Trust as appropriate.

9.11.5 Technical & Organisational Competence

9.11.5.1 Any tender or quotation shall only be accepted by the Trust where the Director responsible for the originating department or his/her nominated officer is satisfied with the technical and organisational competence of the firms involved.

9.11.5.2 At least one recent reference shall be taken up from the selection of three provided with the tender documentation of the chosen tenderer. Any tender shall only be accepted where the references taken up are satisfactory, in the opinion of the relevant Director or his/her nominated officer (as detailed in paragraph 9.11.5.1).

9.12 POST-TENDER NEGOTIATIONS

9.12.1 Post tender negotiations with the successful tenderer shall only be performed with the prior agreement of the Chief Executive or the Director of Finance and a signed record shall be kept of the reasons for the negotiations and the outcome of the discussions, with the signed record being retained with the associated tender working papers.

9.13 DISPOSALS

9.13.1 Paragraph 9.5 (Competitive Tendering) 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 shall be dealt with in accordance with the relevant contract;
- (d) land or building concerning which Department of Health guidance has been issued, but subject to compliance with such guidance;
- (e) items arising from works of construction, demolition or site clearance, which should be dealt with in accordance with the relevant contract.

9.14 IN HOUSE SERVICES

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

9.15 FORMS OF CONTRACT

9.15.1 Every contract for building and engineering works (except contracts for maintenance work only where DH and NTDA guidance shall be followed) shall be covered by a suitable form of contract, for example the Joint Contracts Tribunal (JCT) Minor Building Works contract or the National Engineering Council (NEC) contract. In the case of contracts for building and engineering works costing more than £100,000 (or such other amount as the Department of Health may from time to time determine), the contract shall be embodied in a formal document executed under seal.

9.15.2 **Cancellation of Contracts** - Except where specific provision is made in model Forms of Contracts or standard Schedules of Conditions approved for use within the NHS and in accordance with Standing Orders, there shall, where possible, be inserted in every written contract a clause empowering the Trust to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor 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 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 for showing or forbearing to show favour or disfavour to any person in relation to the contracts or any other contract with the Trust, or 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 if in relation to any contract with the Trust the contractor or any person employed by him/her or acting on his/her behalf shall have committed any offence under the Bribery Act 2010, Trust's Anti-Fraud Policy and other appropriate legislation.

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

9.15.4 **Contracts involving Funds Held on Trust** – shall do so individually to a specific named fund. Such contracts involving charitable funds shall comply with the requirements of the Charities Act 2006.

9.15.5 Anyone tasked with entering into contract negotiations shall seek legal advice from Trust Solicitors and other professional groups such as Counter Fraud.

9.16 ADVANCE AND PHASED PAYMENTS

9.16.1 Advance payments, except those made for capital building projects or software licences as laid down in the conditions of contract, are only to be made in exceptional circumstances and shall only be made following the agreement of the Chief Executive and/or the Director of Finance or his/her nominated officer.

9.16.2 Phased payments, except those made for capital building projects, as laid down in the conditions of contract, are only to be made if authorised by the Chief Executive and/or Director of Finance or his/her nominated officer.

9.16.3 A signed record shall be kept of the reasons for this method of payment, with the signed record being retained with the associated tender working papers.

9.17 APPLICATION OF LIQUIDATED AND ASCERTAINED DAMAGES ON CONSTRUCTION CONTRACTS

9.17.1 The Chief Executive or his/her nominated officer shall normally enforce the application of liquidated and ascertained damages on construction contracts, except where the Chief Executive or his/her nominated officer determine that they should be waived. In circumstances where such damages are waived the Chief Executive shall note the reasons in a signed record, which will be passed to the Director of Finance and presented to the Audit Committee as appropriate.

9.18 REPORTING OF TENDER ACTIVITY

9.18.1 The Director of Corporate Affairs/Trust Secretary shall report to the Board any tenders received and the names of those organisations tendering.

9.18.2 After the analysis of tenders by the senior manager responsible has completed, the Director of Corporate Affairs/Trust Secretary shall report to the Board for noting in the Part 2 meeting:

- (a) what was being tendered,
- (b) the names of those tendering and
- (c) the amounts of each tender.

9.18.3 This report is to be presented as soon as practicable after tenders have been opened.

9.18.4 The senior manager responsible for the procurement shall provide the Director of Corporate Affairs/Trust Secretary with sufficient information to enable the reporting required at paragraph 9.18.2.

9.19 PRIVATE FINANCE INITIATIVE (PFI)

9.19.1 Where appropriate the Trust will test for PFI when considering capital procurement. When the Board 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) Where the sum exceeds delegated limits set by the Department of Health, a business case must be referred to the organisation designated by the DoH for approval.
- (c) The proposal must be specifically agreed by the Board.
- (d) The selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

Appendix A

**London Ambulance Service NHS Trust
Competitive Tendering Register
Record of Invitations to Tender**

Tender:		
Reg. No:		
Date & Time:		
Estimated Value:		
Reported to TB:		
Present At Opening:		
Closing Date:		
<table border="1"><thead><tr><th><u>Name</u></th><th><u>Amount</u></th></tr></thead><tbody></tbody></table>	<u>Name</u>	<u>Amount</u>
<u>Name</u>	<u>Amount</u>	

10. NHS SERVICE AGREEMENTS FOR PROVISION OF SERVICES

10.1 Service Level Agreements (SLAs)

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

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

- (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) the NHS National Performance Assessment Framework;
- (e) that SLAs build where appropriate on existing Joint Investment Plans
- (f) that SLAs are based on integrated care pathways.

10.2 Involving partners and jointly managing risk

10.2.1 A good SLA will result from a dialogue of clinicians, users, carers, public health professionals and managers. It will reflect knowledge of local needs and inequalities. This will require the Chief Executive to ensure that the Trust works with all partner agencies involved in both the delivery and the commissioning of the service required. The SLA will apportion responsibility for handling a particular risk to the party or parties in the best positions to influence the event and financial arrangements should reflect this. In this way that Trust can jointly manage risk with all interested parties.

10.3 Reports to Board on SLAs

10.3.1 The Chief Executive, as the Accountable Officer, will need to ensure that regular reports are provided to the Board detailing actual and forecast income from the SLA.

10.4 SHARED AND HOSTED SERVICE ARRANGEMENTS

10.4.1 Where the Trust uses a shared or hosted service provided by another NHS organisation or private company to undertake part of its functions, these functions shall remain the ultimate responsibility of the Trust.

10.4.2 ELFS Shared Services, a business division of Calderstones Partnership NHS Foundation Trust, are responsible for the provision of a Financial Shared Service on behalf of the Trust. The Shared Financial Services are contractually bound to deliver the financial services to the Trust overseen by the Director of Finance or his nominated officer as defined by the contract between both parties. The Director of Finance shall retain overall accountability in relation to the delivery of the financial services provided to the Trust.

10.4.3 A contractual agreement with an overarching SLA has been agreed between the Trust and the Shared Financial Services provider setting out the arrangements for the delivery of a Shared Financial Service with a clearly defined mechanism in order to monitor and report the performance in full.

10.4.4 All arrangements are clearly set out in the KPIs detailing accountability, responsibilities and authority of the respective parties. This also set out the framework by which the Trust and its auditors can gain assurance and the timescales by which this will be provided.

11. TERMS OF SERVICE, ALLOWANCES AND PAYMENT OF MEMBERS OF THE TRUST BOARD AND EMPLOYEES

11.1 REMUNERATION

11.1.1 In accordance with Standing Orders the Board shall establish a Remuneration and Nominations Committee, with clearly defined terms of reference, specifying which posts fall within its area of responsibility, its composition, and the arrangements for reporting.

11.1.2 The Committee will:

(a) advise the Board about appropriate remuneration and terms of service for the Chief Executive, other officer members employed by the Trust as determined by the committee but normally to include the first layer of management below Board of Director level including:

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

(b) make such recommendations to the Board on the remuneration and terms of service of office members of the Board as per 11.2.1 (a) 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 officer members (and other senior employees as per SFI 11.1.2 (a));

(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.

11.1.3 The Committee Chairman shall report formally to the Board on its proceedings after each meeting on all matters within its duties and responsibilities. The minutes of the relevant Board meetings are formally to record decisions taken.

11.1.4 The Board will consider and need to approve proposals presented by the Chief Executive for the setting of remuneration and terms of service for senior management, the definition of which shall be determined by the Committee.

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

11.2 FUNDED ESTABLISHMENT

11.2.1 The workforce plans incorporated within the annual budget will form the funded establishment.

11.2.2 The funded establishment of any department may not be varied without the approval of the Director of Support Services and the Director of Finance. The changes resulting in variation from the annual budget exceeding £500k must be approved by the Trust Board.

11.3 STAFF APPOINTMENTS

11.3.1 No officer or member of the Trust Board 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 Officer; and
- (b) within the limit of their approved budget and funded establishment.

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

11.4 PROCESSING OF PAYROLL

11.4.1 The Director of Support Services is responsible for:

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

11.4.2 The Director of Support Services will issue instructions regarding:

- (a) verification and documentation of data;
- (b) the timetable for receipt and preparation of payroll data and the payment of employees and allowances;
- (c) maintenance of subsidiary records for superannuation, income tax, social security and other authorised deductions from pay;
- (d) security and confidentiality of payroll information;
- (e) checks to be applied to completed payroll before and after payment;
- (f) authority to release payroll data under the provisions of the Data Protection Act;

11.4.3 The Director of Finance will issue instructions to the Shared Financial Services provider in respect of:

- (a) methods of payment available to various categories of employee;
- (b) procedures for payment by cheque, bank credit to employees;
- (c) procedure for the recall of cheques and bank credits;
- (d) maintenance of regular and independent reconciliation of pay control accounts;
- (e) separation of duties of preparing records and handling cash; and
- (f) 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.

11.4.4 Appropriately nominated managers have delegated responsibility for:

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

11.4.5 Regardless of the arrangements for providing service, the Director of Support Services 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.

11.5 **CONTRACTS OF EMPLOYMENT**

11.5.1 The Board shall delegate responsibility to the Director of Support Services for:

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

12. **NON-PAY EXPENDITURE**

12.1 **DELEGATION OF AUTHORITY**

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

12.1.2 The Chief Executive will set out:

- (a) the list of managers who are authorised to place requisitions for the supply of goods and services; and
- (b) the maximum level of each requisition and the system for authorisation above that level.
- (c) the authorised signatories policy; a list of authorised signatories will be held by the Finance Department.
- (d) The list of authorised signatories held by the Finance Department with such thresholds will be advised to the Shared Financial Services on a regular basis to ensure on-going compliance. This is specified in the contractual agreement between the Trust and the Shared Financial Services.

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

12.2 CHOICE, REQUISITIONING, ORDERING, RECEIPT AND PAYMENT FOR GOODS AND SERVICES

12.2.1 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 Director of Finance or his/her nominated officer shall be sought.

12.2.2 Requisitions are not to be split or otherwise raised in a manner devised so as to avoid the financial thresholds. No requisition is to be raised which would cause a budget overspend unless agreed in advance with the Director of Finance.

12.2.3 The Director of Finance shall be responsible for the prompt payment of accounts and claims. Payment of contract invoices shall be in accordance with contract terms, or otherwise, in accordance with national guidance. Shared Financial Services are contracted to carry out the above procedure on behalf of the Trust, this is part of the contractual agreement between the Shared Financial Services and the Trust.

12.2.4 The Director of Finance will:

- (a) advise the Board regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; and, once approved, the thresholds should be incorporated in standing orders and regularly reviewed;
- (b) prepare procedural instructions on the obtaining of goods, works and services incorporating the thresholds;
- (c) be responsible for the prompt payment of all properly authorised accounts and claims;
- (d) be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable. The system shall provide for:
 - (i) a list of directors/employees (including specimens of their signatures) authorised to certify invoices.
 - (ii) Certification that:
 - goods have been duly received, examined and are in accordance with specification and the prices are correct;
 - 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 that charges are correct;
 - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for

the use of vehicles, plant and machinery have been examined.

- where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
- the account is arithmetically correct;
- the account is in order for payment.

(iii) A timetable and system for submission to the Director of Finance of accounts for payment; provision shall be made for the early submission of accounts subject to cash discounts or otherwise requiring early payment.

(iv) Instructions to employees regarding the handling and payment of accounts within the Finance Department.

(e) be responsible for ensuring that payment for goods and services is only made once the goods and services are received, (except as below).

12.2.5 The Shared Financial Services will provide the Trust with the appropriate monitoring on the Better Payment Practice Code as required. Pre-payments are only permitted where exceptional circumstances apply. In such instances:

- (a) Prepayments are only permitted where the financial advantages outweigh the disadvantages (i.e. cashflows must be discounted to NPV using the National Loans Fund (NLF) rate plus 2%, or where in the nature of the business, prepayment is a normal term and condition eg telephone line rental).
- (b) the appropriate officer must provide, in the form of a written report to the Director of Finance, 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 make his commitments;
- (c) the Director of Finance will need to be satisfied with the proposed arrangements before contractual arrangements proceed (taking into account the EU public procurement rules where the contract is above a stipulated financial threshold); and
- (d) the budget holder is responsible for ensuring that all items due under a pre-payment contract are received and he/she must immediately inform the appropriate Director or Chief Executive if problems are encountered.

12.2.6 Official Orders must:

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

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

- (a) all contracts (except as provided in the Scheme of Delegation), leases, tenancy agreements and other commitments which may result in a liability are notified to the Director of Finance in advance of any commitment being made;
- (b) all leases for property over £3 million in value over the life of the lease must be referred to the NTDA for approval prior to commitment.
- (h) contracts above specified thresholds are advertised and awarded in accordance with EU on public procurement.
- (+) where consultancy advice is being obtained, the procurement of such advice must be in accordance with guidance issued by the Department of Health
- (e) no requisition/order is placed for any item or items for which there is no budget provision unless authorised by the Director of Finance on behalf of the Chief Executive;
- (f) all goods, services, or works are ordered on an official order except works and services executed in accordance with a contract and purchases from petty cash;
- (g) verbal orders must only be issued very exceptionally – by an employee designated by the Chief Executive and only in cases of emergency or urgent necessity. These must be confirmed by an official order and clearly marked “Confirmation Order”;
- (h) orders are not split or otherwise placed in a manner devised so as to avoid the financial thresholds;
- (i) goods are not taken on trial or loan in circumstances that could commit the Trust to a future un-competitive purchase;
- (j) changes to the list of directors/employees authorised to certify invoices are notified to the Director of Finance;
- (k) purchases from petty cash are restricted in value and by type or purchase in accordance with instructions issued by the Director of Finance;
- (l) petty cash records are maintained in a form as determined by the Director of Finance.
- (m) purchases using purchasing cards are restricted in value and by type of purchase in accordance with instructions issued by the Director of Finance.
- (n) Purchasing card records are maintained in a form as determined by the Director of Finance.

12.2.8 The Chief Executive must ensure that the Trust’s Standing Orders are compatible with the requirements issued by the NHS in respect of building and engineering contracts and land and property transactions (ESTATECODE). The technical audit of these contracts shall be the responsibility of the Director managing those

areas. The 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 these codes.

13 EXTERNAL BORROWING AND INVESTMENTS

13.1 EXTERNAL BORROWING

13.1.1 The Director of Finance will advise the Board concerning the Trust's ability to pay interest on, and repay, both the originating capital debt and any proposed new borrowing, within the limits set by the NHS. The Director of Finance is also responsible for reporting periodically to the Board concerning the originating debt and all loans and overdrafts.

13.1.2 The Board will agree the list of employees (including specimen of their signatures) who are authorised to make short term borrowing on behalf of the Trust. This must contain the Chief Executive and the Director of Finance.

13.1.3 Any application for a loan or overdraft will only be made by the Director of Finance or by an employee so delegated by him and the Board will be informed of this at the following meeting.

13.1.4 The Director of Finance must prepare detailed procedural instructions concerning applications for loans and overdrafts.

13.1.5 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 Department of Health.

13.1.6 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 Director of Finance. The Board must be made aware of all short-term borrowings at the next Board meeting.

13.1.7 All long term borrowing must be consistent with the plans outlined in the current Business Plan.

13.2 INVESTMENTS

13.2.1 Temporary cash surpluses must be held only in such public or private sector investments as notified by the Secretary of State and authorised by the Board via the Treasury policy.

13.2.2 The Director of Finance is responsible for advising the Board on investments and shall report periodically to the Board concerning the performance of investments held.

13.2.3 The Director of Finance will prepare detailed procedural instructions on the operation of investment accounts and on the records to be maintained.

14 FINANCIAL FRAMEWORK

14.1 The Director of Finance should ensure that members of the Board are aware of the Financial Framework. This document contains directions which the Trust must follow. It also contains directions regarding resource and capital allocation and funding of Trusts. The Director of Finance should also ensure that the direction and guidance in the framework is followed by the Trust.

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

15.1.1 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 ensuring that there is a system in place to ensure the effective management of all stages of capital schemes and for ensuring that schemes are delivered on time and to cost; and
- (c) shall ensure that the capital investment is not undertaken without confirmation of purchasers support and the availability of resources to finance all revenue consequences, including capital charges.

15.1.2 For every capital expenditure proposal above the limits set in the Scheme of Delegation the Chief Executive shall ensure:

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

The involvement of appropriate Trust personnel and external agencies;

- (ii) appropriate project management and control arrangement; and
- (b) that the Director of Finance has certified professionally to the costs and revenue consequences detailed in the business case.

15.1.3 The Director of Finance shall assess on an annual basis the requirements for the operation of the construction industry tax deduction scheme in accordance with Inland Revenue guidance.

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

15.1.5 The Director of Finance shall assess on an annual basis the requirement for the operation of the construction industry tax deduction scheme in accordance with Inland Revenue guidance.

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

15.1.7 The approval of a capital programme shall not constitute approval for expenditure on any individual 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;
- (c) approval to accept a successful tender.

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

15.1.8 The Director of Finance shall issue procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes. These procedures shall take fully into account the delegated limits for capital schemes included in DH and NTDA guidance.

15.2 PRIVATE FINANCE

15.2.1 When the Trust proposes to use finance which is to be provided other than through its EFL, the following procedures shall apply:

- (a) The Director of Finance shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector.
- (b) Where the sum involved exceeds delegated limits, the business case must be referred to the Department of Health or in line with current guidelines.
- (c) The proposal must be specifically agreed by the Board where it exceeds the threshold set for capital schemes for Board approval.

15.3 ASSET REGISTERS

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

15.3.2 The Trust shall maintain an asset register for recording fixed assets. The minimum data set to be held within these registers shall be designed so as to generate the standard accounting figures to enable the annual accounts to be produced, and will comply with any guidance issued by the Department of Health or the NTDA.

15.3.3 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; and
- (c) lease agreements in respect of assets held under a finance lease and capitalised.

15.3.4 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).

15.3.5 The Director of Finance shall approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.

15.3.6 The value of each asset shall be indexed to current values in accordance with guidance issued by the Department of Health or the NTDA.

15.3.7 The value of each asset shall be depreciated using methods and rates as specified in guidance issued by the Department of Health or NTDA.

15.3.8 The Director of Finance shall calculate and pay capital charges as specified in guidance issued by the Department of Health or NTDA.

15.4 **SECURITY OF ASSETS**

15.4.1 The overall control of fixed assets is the responsibility of the Chief Executive. Director of Finance will escalate the report to the Chief Executive and will refer any suspicions of fraud or other criminal activity to the appropriate authority.

15.4.2 Asset control procedures (including fixed assets, cash, cheques and negotiable instruments, and also including donated assets) must be approved by the Director of Finance. This procedure shall make provision for:

- (a) recording managerial responsibility for each asset;
- (b) identification of additions and disposals;
- (c) physical security of assets;
- (d) periodic verification of the existence of assets recorded;
- (e) identification and reporting of all costs associated with the retention of an asset; and
- (f) reporting, recording and safekeeping of cash, cheques, and negotiable instruments.

15.4.3 All discrepancies revealed by verification of physical assets to the fixed asset register shall be notified to the Director of Finance.

15.4.4 Whilst each employee has a responsibility for the security of property of the Trust, it is the responsibility of Board members and senior employees in all disciplines to apply such appropriate routine security in relation to NHS property as may be determined by the Board. Any breach of agreed security practices must be reported in accordance with agreed procedures.

15.4.5 Any damage to the Trust's premises, vehicles and equipment, or any loss of equipment, stores or supplies must be reported by directors and employees in accordance with the procedure for reporting losses.

15.4.6 Where practical, assets should be marked as Trust property.

16 **STORES AND RECEIPT OF GOODS**

General position

16.1 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.

16.2 Subject to the responsibility of the Director of Finance for the system of control, overall responsibility for the control of stores shall be delegated to the Director of Support Services. The day-to-day responsibility may be delegated by them to departmental employees and stores managers/keepers, subject to such delegation being entered in a record available to the Director of Finance. The control of pharmaceutical stocks and oil shall be the responsibility of the Director of Support Services. The control of fuel shall be the responsibility of the Director of Operations.

16.3 The responsibility for security arrangements and the custody of keys for all stores at ambulance stations shall be clearly defined in writing by the Director of Operations. Wherever practicable, stocks should be marked as health service property.

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

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

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

16.7 There will be a system approved by the Director of Finance for a review of slow moving and obsolete items and for condemnation, disposal and replacement of all unserviceable articles. The Director of Support Services shall report to the Director of Finance any evidence of significant overstocking and of any negligence or malpractice (see also 15, 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.

17 **DISPOSALS AND CONDEMNATIONS, LOSSES AND SPECIAL PAYMENTS**

17.1 **DISPOSALS AND CONDEMNATIONS**

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

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

17.1.3 All unserviceable articles shall be:

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

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

17.2 **LOSSES AND SPECIAL PAYMENTS**

17.2.1 The Director of Finance must prepare procedural instructions on the recording of and accounting for condemnations, losses and special payments. These will be authorised by the Audit Committee.

17.2.2 Any employee discovering or suspecting a loss of any kind must immediately inform their head of department, who must immediately inform the Chief Executive and the Director of Finance or inform an officer charged with the responsibility for responding to concerns involving loss. This officer will then appropriately inform the Director of Finance and/or Chief Executive. Where a criminal offence is suspected, the Director of Finance must immediately inform the police if theft or arson is involved.

17.2.3 In cases of fraud and corruption or of anomalies that may indicate fraud or corruption, the Director of Finance must inform the relevant Area Counter Fraud Specialist in accordance with guidance set out in the NHS Standard Contract (National Commissioning Contract)

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

17.2.5 For losses apparently caused by theft, fraud, arson, neglect of duty or gross carelessness, except if trivial and where fraud is not suspected, the Director of Finance must immediately notify:

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

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

18 **INFORMATION TECHNOLOGY**

- 18.1 The Director of Finance, and the Director of Support Services, who are 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 they are responsible from accidental or intentional disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for the Data Protection Act 1998 or 2003?;
 - (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 adequate management (audit) trails exist through the computerised system and that such computer audit reviews as are considered necessary are being carried out.
 - (e) The main finance system is operated on behalf of the Trust by the Shared Financial Services. The detailed requirements are specified in the Service Level Agreement with the contractual agreements between the Trust and the Shared Financial Services provider.
- 18.2 The Director of Finance shall be satisfied 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.
- 18.3 The Director of Corporate Affairs/Trust Secretary 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 the Trust that is made publicly available.

- 18.4 The Director of Finance shall ensure that contracts for computer services for financial applications with another health organisation or any other agency shall clearly define the responsibility of all parties for the security, privacy, accuracy, completeness, and timeliness of data during processing, transmission and storage. The contract should also ensure rights of access for audit purposes.
- 18.5 Where another health organisation or any other agency provides a computer service for financial applications, the Director of Finance shall periodically seek assurances that adequate controls are in operation.
- 18.6 Where computer systems have an impact on corporate financial systems the Directors of Support Services and Finance shall be satisfied that:
- (a) systems acquisitions, development and maintenance are in line with corporate policies such as an Information Technology Strategy;
 - (b) data produced for use with financial systems is adequate, accurate, complete and timely, and that a management (audit) trail exists;
 - (c) Directorate of Finance staff have access to such data; and
 - (d) such computer audit reviews as are considered necessary are being carried out.
- 18.7 In the case of computer systems which are proposed general applications (i.e. those applications which the majority of Trusts in an NHS environment normally wish to sponsor jointly), all responsible directors and employees will send to the Director of Support Services:
- (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.
- 18.8 It is an offence to steal or guess someone's username or password and to use this information to access, modify or delete data which an individual is not authorised to access, or to alter settings on a computer or otherwise affect its operation. It is recommended that an insert is added to this Section outlining that legal action will be considered under the Computer Misuse Act 1990 against those found misusing or abusing computer systems and data.
- 18.9 A person must not knowingly or recklessly, without the consent of the data controller:
- Obtain or disclose personal data or the information contained in personal data, or
 - Procure the disclosure to another person.

Unless they can show:

- This was necessary for the purpose of preventing or detecting crime, or was required or authorised by or under any enactment, by any rule of law or by the order of a court,
- That he acted in the reasonable belief that he had in law the right to obtain or disclose the data,
- That he acted in the reasonable belief that he would have had the consent of the data controller, or
- That in the particular circumstances the action was justified as being in the public interest.

Any person found breaching the above could be liable to criminal offences in accordance with Section 55 of the Data Protection Act.

19 RISK ASSESSMENT

The Director of Finance and the Director of Support Services 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.

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

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

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

20 PATIENTS' PROPERTY

20.1 The Trust has a responsibility to provide safe custody for money and other personal property (hereafter referred to as "property") handed in by patients, in the possession of unconscious or confused patients or found in the possession of deceased patients.

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

- 20.3 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.
- 20.4 The Trust will not accept responsibility or liability for patients' property brought into Health Service premises, unless it is handed in for safe custody and a copy of an official patients' property record is obtained as a receipt.

21 CHARITABLE FUNDS

21.1 INTRODUCTION

21.1.1 The discharge of the Trust's corporate trustee responsibilities are distinct from its responsibilities for exchequer funds and may not necessarily be discharged in the same manner, but there must still be adherence to the overriding general principles of financial regularity, prudence and propriety. Trustee responsibilities cover both charitable and non-charitable purposes. The Director of Finance shall ensure that each fund is managed appropriately with regard to its purpose and to its requirements.

21.1.2 This Section of the SFIs shall be interpreted and applied in conjunction with the rest of these Instructions, subject to modifications contained herein.

21.1.3 The Director of Finance will have primary responsibility to the Board for ensuring that these SFIs are applied to charitable funds.

21.2 EXISTING FUNDS

21.2.1 The Director of Finance shall arrange for the administration of all existing charitable funds, in conjunction with the Legal Advisor. They shall ensure that a governing instrument exists for every trust fund and shall produce detailed codes of procedure covering every aspect of the financial management of funds held on trust, for the guidance of directors and employees. Such guidelines shall identify the restricted nature of certain funds.

21.2.2 The Director of Finance shall periodically review the funds in existence and shall make recommendations to the Board regarding the potential for rationalisation of such funds within statutory guidelines.

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

21.2.4 The trustee responsibilities must be discharged separately and full recognition given to the Trust's dual accountabilities to the Charity Commission for charitable funds held on trust and to the Secretary of State for all funds held on trust.

21.2.5 The Scheme of Matters Reserved to the Board and the Scheme of Delegation make clear where decisions regarding the exercise of discretion rearing the disposal and use of the funds are to be taken by whom. All Trust Board members and Trust officers must take account of that guidance before taking action.

21.2.6 The over-riding principle is that the integrity of each Trust must be maintained and statutory and Trust obligations met. Materiality must be assessed separately from Exchequer activities and funds.

21.3 NEW FUNDS

21.3.1 The Director of Finance shall, in conjunction with the Legal Advisor, arrange for the creation of a new trust where funds and/or other assets, received in accordance with this Body's policies, cannot adequately be managed as part of an existing trust.

21.3.2 The Director of Finance shall present the governing document to the Board for adoption as required in Standing Orders for each new trust. Such document shall clearly identify, inter alia, the objects of the new trust, the capacity of this Trust to delegate powers to manage and the power to assign the residue of the trust to another fund contingent upon certain conditions, e.g. Discharge of original objects.

21.4 SOURCES OF NEW FUNDS

21.4.1 In respect of Donations, the Director of Finance shall:

- (a) provide guidelines to officers of the Trust as to how to proceed when offered funds. These to include:
 - (i) the identification of the donor's intentions;
 - (ii) where possible, the avoidance of new trusts;
 - (iii) the avoidance of impossible, undesirable or administratively difficult objects;
 - (iv) sources of immediate further advice; and
 - (v) treatment of offers for personal gifts; and
- (b) provide secure and appropriate receipting arrangements which will indicate that funds have been accepted directly into the Trust's charitable funds and that the donor's intentions have been noted and accepted.

21.4.2 In respect of **Legacies and Bequests**, the Director of Finance shall, with appropriate legal advice:

- (a) provide guidelines to officers of the Trust covering any approach regarding:
 - (i) the wording of wills;
 - (ii) the receipt of funds/other assets from executors;
- (b) where necessary, obtain grant of probate, or make application for grant of letters of administration, where the Trust is the beneficiary;
- (c) be empowered, on behalf of the Trust, to negotiate arrangements regarding the administration of a will with executors and to discharge them from their duty; and
- (d) be directly responsible, in conjunction with the, for the appropriate treatment of all legacies and bequests.

21.4.3 In respect of **Fund-raising**, the Director of Finance shall:

- (a) after consultation with the Legal Advisor, deal with all arrangements for fund-raising by and/or on behalf of the Trust and ensure compliance with all statutes and regulations;
- (b) be empowered to liaise with other organisations/persons raising funds for the Trust and provide them with an adequate discharge. The Director of Finance shall be the only officer empowered to give approval for such fund-raising subject to the overriding direction of the Board;
- (c) be responsible, along with the Legal Advisor, for alerting the Board to any irregularities regarding the use of the Trust's name or its registration numbers; and
- (d) be responsible, after due consultation with the Legal Advisor, for the appropriate treatment of all funds received from this source.

21.4.4 In respect of **Trading Income**, the Director of Finance shall:

- (a) be primarily responsible, along with the Legal Advisor and other designated officers, for any trading undertaken by the Trust as corporate trustee; and
- (b) be primarily responsible, along with the Legal Advisor, for the appropriate treatment of all funds received from this source.

21.5 INVESTMENT MANAGEMENT

21.5.1 The Director of Finance shall be responsible for all aspects of the management of the investment of income and funds held on trust. The issues on which he shall be required to provide advice to the Board shall include:-

- (a) in conjunction with the Legal Advisor, the formulation of investment policy within the powers of this Body under Statute and within governing instruments to meet its requirements with regard to income generation and the enhancement of capital value;
- (b) the appointment of advisers, brokers, and where appropriate, fund managers and:
 - (i) the Director of Finance shall agree, in conjunction with the Legal Advisor, the terms of such appointments; and for which
 - (ii) written agreements shall be signed by the Chief Executive;
- (c) pooling of investment resources and the preparation of a submission to the Charity Commission for them to make a scheme;
- (d) the participation by this Body in common investment funds and the agreement of terms of entry and withdrawal from such funds;
- (e) that the use of NHS Trust assets shall be appropriately authorised in writing and charges raised within policy guidelines;
- (f) the review of the performance of brokers and fund managers;

- (g) the reporting of investment performance.

21.6 DISPOSITION MANAGEMENT

21.6.1 The exercise of the Trust's dispositive discretion shall be managed by the Director of Finance in conjunction with the Board. In so doing he shall be aware of the following:

- (a) The objects of various funds and the designated objectives;
- (b) the availability of liquid funds within each charitable fund;
- (c) the powers of delegation available to commit resources;
- (d) the avoidance of the use of exchequer funds to discharge charitable fund liabilities (except where administratively unavoidable), and to ensure that any indebtedness to the Exchequer shall be discharged by trust funds at the earliest possible time;
- (e) that funds are to be spent rather than preserved, subject to the wishes of the donor and the needs of the Trust; and
- (f) the definitions of "charitable purposes" as agreed by the NHS and the Charity Commission.

21.7 BANKING SERVICES

21.7.1 The Director of Finance shall advise the Board and, with its approval, shall ensure that appropriate banking services are available to the Trust as corporate trustee. These bank accounts should permit the separate identification of liquid funds to each trust where this is deemed necessary by the Charity Commission.

21.8 ASSET MANAGEMENT

21.8.1 Charitable fund assets in the ownership of or used by the Trust as corporate trustee, shall be maintained along with the general estate and inventory of assets. The Director of Finance shall ensure:

- (a) in conjunction with the Legal Adviser, that appropriate records of all assets owned by the Trust as corporate trustee are maintained, and that all assets, at agreed valuations, are brought to account;
- (b) that appropriate measures are taken to protect and/or to replace assets. These to include decisions regarding insurance, inventory control, and the reporting of losses;
- (c) that donated assets received on trust shall be accounted for appropriately;
- (d) that all assets acquired from funds held on trust which are intended to be retained within the charitable funds are appropriately accounted for, and that all other assets so acquired are brought to account in the name of the Trust.

21.9 REPORTING

21.9.1 The Director of Finance shall ensure that regular reports are made to the Board with regard to, inter alia, the receipt of funds, investments, and the disposition of resources.

21.9.2 The Director of Finance shall prepare annual accounts in the required manner which shall be submitted to the Board within agreed timescales.

21.9.3 The Director of Finance, in conjunction with the Legal Advisor, shall prepare an annual trustees' report (separate reports for charitable and non-charitable trusts) and the required returns to the NHS and to the Charity Commission for adoption by the Board.

21.10 ACCOUNTING AND AUDIT

21.10.1 The Director of Finance shall maintain all financial records to enable the production of reports as above and to the satisfaction of internal and external audit.

21.10.2 The Director of Finance shall ensure that the records, accounts and returns receive adequate scrutiny by internal audit during the year. He will liaise with external audit and provide them with all necessary information.

21.10.3 The Board shall be advised by the Director of Finance on the outcome of the annual audit. The Chief Executive shall submit the Management Letter to the Board.

21.11 ADMINISTRATION COSTS

21.11.1 The Director of Finance shall identify all costs directly incurred in the administration of funds held on trust and, in agreement with the Board, shall charge such costs to the appropriate trust accounts.

21.12 TAXATION AND EXCISE DUTY

21.12.1 The Director of Finance shall ensure that the Trust's liability to taxation and excise duty is managed appropriately, taking full advantage of available concessions, through the maintenance of appropriate records, the preparation and submission of the required returns and the recovery of deductions at source.

22 ACCEPTANCE OF GIFTS BY STAFF

22.1 The 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. This policy should follow the guidance contained in the Department of Health Standards of Business Conduct for NHS Staff.

23 RETENTION OF RECORDS

23.1 The Chief Executive shall be responsible for maintaining archives for all records required to be retained in accordance with Department of Health guidelines, currently the Records Management: NHS Code of Practice.

23.2 The records held in archives shall be capable of retrieval by authorised persons

23.3 Records held in accordance with the Records Management: NHS Code of Practice shall only be destroyed at the express instigation of the Information Governance Manager within the authority delegated by the Chief Executive. Records shall be maintained of documents so destroyed.

24 RISK MANAGEMENT

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

24.2 The programme of risk management shall include:

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

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

24.3 The Board 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 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.

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

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

In any case of doubt concerning a Trust's powers to enter into commercial insurance arrangements, the Finance Director should consult the Department of Health.

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