



London Ambulance Service NHS Trust

Standing Financial Instructions

September 2012

Revision approved by Audit Committee on 3rd September 2012

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.

Mike Dinan
Director of Finance
September 2012

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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 the LAS in relation to all financial matters. They shall have effect as if incorporated in the Standing Orders of the LAS.

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 London Ambulance Service NHS Trust (LAS). 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 LAS. 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 then 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 LAS;
 - (c) "Budget" means a resource, expressed in financial terms, proposed by the LAS for the purpose of carrying out, for a specific period, any or all of the functions of the LAS;
 - (d) "Chief Executive" means the chief officer of the LAS;
 - (e) "Director of Finance" means the chief financial officer of the LAS;
 - (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 LAS 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 LAS.

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 LAS’ 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 LAS' 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 LAS' transactions, in order to disclose, with reasonable accuracy, the financial position of the LAS at any time;
- (d) and, without prejudice to any other functions of directors and employees to the LAS, the duties of the Director of Finance include:
- (e) the provision of financial advice to the LAS, 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 LAS 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 Counter Fraud arrangements

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

- (a) the security of the property of the LAS;
- (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 LAS, in writing, to commit the LAS 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 function, 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 (2005), 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 schedules of debtor/creditors balances over six months old or £100k and explanations/action plans;
- (g) 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 the Shared Financial Services, the Director of Finance shall ensure an adequate Internal Audit Service is specified in any contractual agreement between the LAS and the Shared Financial Service provider and shall specify the assurance arrangements between the Internal and External Auditors for the LAS 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 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 LAS;
- (c) the production of any cash, stores or other property of the LAS 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 LAS' 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 LAS.

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 Secretary of State (SofS) Directions on fraud and corruption. This document should be read in conjunction with the Anti-Fraud Policy and Anti-Bribery Policy.

Anti Fraud Policy - 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 Counter Fraud Specialist (LCFS) as specified by the Department of Health Fraud and Corruption Manual and guidance.

The contact details for the LCFS are:

Name: Bernie English
Telephone: 07967137126
Email: Bernard.English@rsmtenon.com
Address: 6th Floor Salisbury House, 31 Finsbury Circus, London, EC2M 5SQ

- 2.4.3 The Local Counter 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 LAS be maintaining an Anti-Fraud and Corruption Policy 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 Counter Fraud Specialist to report to the Trust's Director of Finance in accordance with the Department of Health Fraud and Corruption Manual.

- 2.4.6 The Trust has an Anti-Fraud and Corruption Policy which is available on the intranet site, The Pulse.

2.5 **EXTERNAL AUDIT**

- 2.5.1 The external auditor is appointed by the Audit Commission and paid for by the LAS. 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, then 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 issued by the Secretary of State for Health 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 specified by the Secretary of State for Health 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 the 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 budgets 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 Human Resource and Organisation Development 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 LAS, will:

- (a) prepare financial returns for the LAS, in accordance with the accounting policies and guidance given by the Department of Health and the Treasury, the LAS' 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 LAS will publish an Annual Report, in accordance with guidelines on local accountability, and present it at a public meeting. The document will comply with the Department of Health's Manual for Accounts. The document will include inter alia:

- (a) the Annual Accounts of the LAS;
- (b) details of relevant directorships and other significant interests held by Board members, as defined in Standing Orders;
- (c) composition of the Remuneration and Terms of Service 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 LAS' banking arrangements and for advising the LAS 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' Trust 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 LAS' 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 LAS' 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 LAS from bank accounts maintained on behalf of LAS, 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 LAS.

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 LAS' accounts.

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

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

7.4 TENDERING AND REVIEW

7.4.1 The Director of Finance will review the commercial banking arrangements of the LAS at regular intervals to ensure they reflect best practice and represent best value for money by periodically seeking competitive tenders for the LAS' 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 LAS.

8.2 FEES AND CHARGES

8.2.1 The LAS 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 LAS, become the custodian of all visible audit of this and will be monitored in accordance with the contractual agreement between the LAS 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 LAS.

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 LAS is not to be held liable for any loss, and written indemnities must be obtained from the

organisation or individuals absolving the LAS 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 LAS.

9 TENDERING AND CONTRACT PROCEDURE

9.1 DUTY TO COMPLY WITH STANDING ORDERS

9.1.1 The Trust shall ensure that competitive tenders are invited 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); for 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 or, in an emergency, as detailed in paragraph 9.1.2.

9.1.3 All companies entering contracts with the organisation must provide a minimum of Full name; Registered number; and Registered address and any separate principal trading addresses.

(i) Additionally, for unquoted companies:

Name 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. For group companies the organisation will need to understand the structure of the group and identify any beneficial owner of the ultimate parent. An identification verification certificate – should be used to collect and retain the details.

(ii) London Ambulance Service 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 a copy of the company's certificate of incorporation.

(iii) 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. London Ambulance Service should consider whether there is evidence that the business is well known, reputable and of long standing and document this evidence.

(iv) In addition the London Ambulance Service should take appropriate steps on a risk basis to obtain evidence that the person(s) instructing us have the necessary authority to do so. 'Know your client' is an on-going process. If the organisation becomes aware of changes to the client'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 An exception from any of the following provisions of these Standing Orders may be made by direction of the Board. In an emergency an exception may be made by direction of the Chief Executive, or in his/her absence, the Director of Finance, or in his/her absence, an Executive Director other than the Director directly involved in the issue. In such emergency circumstances, the exception shall only be made after consulting with the Chairman of the Board or, in his/her absence, the Deputy-Chairman, in accordance with Standing Order (Urgent Decisions).
- 9.1.5 The Trust shall comply as far as is practical with the requirements of the Department of Health "Capital Investment Manual" and "Estate Code" 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. "The Procurement and Management of Consultants within the NHS".

9.2 EU DIRECTIVES

- 9.2.1 Directives by the Council of the European Union (EU) 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.
- 9.2.3 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.
- 9.2.4 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 the extant EU procurement thresholds as set out in the following link:
http://www.ogc.gov.uk/procurement_policy_and_application_of_eu_rules_eu_procurement_thresholds_.asp
- 9.2.5 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.
- 9.2.6 The thresholds are set bi-annually and with effect from January 1st 2011 (VAT exclusive) are as follows:

Supplies	£113,057
Services	£113,057
Works	£4,348,350

9.3 PROCUREMENT FRAMEWORK

9.3.1 Standard Procurement Method

The Trust's standard method of procurement shall be by competitive tendering. However, as detailed below, the Trust's standard method of procurement shall be affected by the monetary value of the goods and services being purchased.

9.3.2 Purchases below £3,000

9.3.2.1 Standard Trust purchasing procedures shall be followed without the requirement for either competitive tendering to be implemented or competing quotations to be sought.

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

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 the Trust's supplies agent. Refer to paragraph 9.5.

9.3.3.2 Non-estates purchases are goods and services other than purchases relating to building and engineering works (as detailed in paragraph 9.4.1).

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

9.3.3.1 Competing quotations shall be sought.

9.3.3.2 Estates purchases relate to building and engineering works.

9.3.4 Non-Estates Purchases above £25,000

9.3.4.1 Competitive tendering shall be implemented. Refer to paragraph 9.4.1.

9.3.4.2 Non-estates purchases are goods and services other than purchases relating to building and engineering works (as detailed in paragraph 9.4.1).

9.3.5 Estates Purchases above £100,000

9.3.5.1 Competitive tendering shall be implemented. Refer to paragraph 9.4.1.

9.3.5.2 Estates purchases relate to building and engineering works (as detailed in paragraph 9.4.1).

9.4 COMPETITIVE TENDERING

9.4.1 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;

the rendering of services, including consultancy costs, with a monetary value in excess of £25,000;
- (c) building and engineering works of construction and maintenance, (including construction and maintenance of grounds and gardens) and for professional design services on works projects, with a monetary value in excess of £100,000, or such other figure as the Department of Health may from time to time determine;
- (d) for fee bids which take price into consideration for disposals and for all other projects.

9.4.2 Competitive tendering may be waived under the following circumstances:

- (a) where the goods or services are ordered under existing contracts;
- (b) as provided for under paragraphs 9.4 and 9.6 and 9.14 (Disposals);
- (c) where so provided in the NHSE Capital Investment Manual - copies of which are held within the Finance and Estates departments for reference purposes as appropriate;
- (d) The timescale genuinely precludes competitive tendering. Failure to plan the work properly is not a justification for single tender.
- (e) the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;
- (f) there is a clear benefit to be gained from maintaining continuity with an earlier project. However in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering.
- (g) 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 (as detailed in paragraph 9.5.2).

9.4.3 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. A copy of the signed record shall be retained with the associated project working papers and the original signed record shall be retained by the Director of Finance or the Chief Executive.

9.4.4 The provisions of this paragraph apply where EU procurement regulations have been satisfied. 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.
- 9.4.5 Where it is proposed that competitive tendering shall be waived, the information (as detailed in paragraph 9.4.4) shall be presented to the Director of Finance, the Chief Executive or the Trust Board as appropriate (as detailed in paragraphs 9.4.6, 9.4.7, 9.4.8 below). Where the Director of Finance, the Chief Executive or the Trust Board approve the waiving of competitive tendering, the relevant record (as detailed in paragraph 9.4.3) 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.
- 9.4.6 Where the proposal to waive competitive tendering relates to goods or services valued at less than £150,000, the authorisation shall be given by the Director of Finance.
- 9.4.7 Where the proposal to waive competitive tendering relates to goods or services valued at more than £150,000 and less than £400,000, the authorisation shall be given by the Chief Executive.
- 9.4.8 Where the proposal to waive competitive tendering relates to goods or services valued at more than £400,000, the authorisation shall be given by the Trust's Board.
- 9.4.9 Competitive tendering is not required where:
- (a) 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 public procurement regulations.
- 9.4.10 Formal tendering procedures may be waived, under the authority of one of the Trust's Executive Directors, without reference to the Chief Executive and the Director of Finance where:
- (a) the estimated expenditure is not in relation to building and engineering works, does not exceed £25,000 and is within budget allocation;
 - (b) the estimated expenditure is in relation to building and engineering works (as detailed in paragraph 9.4.1), does not exceed £100,000 and is within budget allocation.
- 9.4.11 Under these circumstances competing quotations are to be sought (as detailed in paragraph 9.5).
- 9.4.12 The Board shall ensure that invitations to tender are sent to a sufficient number of comparable firms to provide fair and adequate competition - taking into account the capacity of the firms to supply the goods or materials or to undertake the services or works required.
- 9.4.13 Normally, a minimum of three comparable firms shall be invited to tender unless procurement is routed through the Trust's supplies agent. In circumstances where the Trust's supplies agent is being used to secure tenders or quotations, the procurer shall not be specified. In circumstances where at least three tenders are

being sought without the use of the Trust's supplies agent, the Trust's supplies agent could also be one of the organisations invited to produce a tender or quotation.

9.4.14 Where approved lists are maintained, the Board shall normally ensure that the firms invited to tender are among those on such approved lists. Such lists, where compiled, will include approved firms which have been subject to appropriate financial vetting (as detailed in paragraph 9.7) as well as the separate maintenance list or record for minor works in accordance with ESTMANCODE guidance. Where maintained, the Director of Finance shall keep the list of financially approved firms and the Director of Finance/Head of Estates shall keep the maintenance list and minor works record.

9.5 COMPETING QUOTATIONS

9.5.1 Where formal competitive tendering is dispensed with under paragraph 4.2, competing quotations shall be obtained in writing wherever possible, unless procurement is routed through the Trust's supplies agent. In circumstances where procurement is routed through the Trust's supplies agent, the Trust's supplies agent shall abide by LAS Standing Orders at all times. 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. 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 building and engineering works (as detailed in paragraph 9.4.1).

9.5.2 Competing quotations may also be invited directly from any firm, including the Trust's supplies agent, without regard to the provisions of paragraph 5.1 (i.e., where the value of the procurement exceeds £25,000 or £100,000 as appropriate) for the following purposes:

- (a) 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;
- (b) 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.

9.5.3 In such circumstances, the firms invited to provide competing quotations shall only be those which are deemed suitable in the opinion of the Chief Executive and the Director of Finance.

9.5.4 Unless the Trust's supplies agent is used, a minimum of three competing quotations shall be invited in writing from comparable firms. 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 with the associated project working papers.

9.5.7 Similar arrangements to those described in paragraph 9.5.2 above may be made for specialist services works in connection with building and engineering maintenance, provided that the Director of Information Management & Technology and Director of Finance certifies that the provisions of paragraph 9.5.2 above are applicable. The reasons for the decision shall be passed by the Director of

Information Management & Technology to the Chief Executive and Director of Finance in writing. The record shall be counter-signed by the Chief Executive and Director of Finance to show their acceptance of the reasons for the decision. A copy of the signed and authorised record outlining the reasons for this decision shall be retained with the associated project working papers.

9.6 STANDARD PROCUREMENT

9.6.1 Where the value of the goods and services to be purchased are less than £10,000, they shall be joined together wherever possible so that the total value exceeds the £10,000 minimum required for purchasing through competing quotations.

9.6.2 Where the provisions of paragraph 9.6.1 are not possible, the requirement for procurement through either competing quotations or competitive tendering shall be waived, and the goods and services shall be purchased through standard LAS procurement channels in accordance with standard LAS procurement procedures. It should be noted that, in order to maintain procedures of best practice and value for money, it is recommended that at least three telephone quotations shall be sought for expenditure of less than £10,000.

9.7 LIST OF APPROVED FIRMS

9.7.1 The Trust shall maintain, wherever possible, lists of approved firms from who tenders and quotations may be invited, ensuring that the establishment and maintenance of such lists allows for sufficient competition. Such lists shall be maintained as detailed in paragraph 9.4.14.

9.7.2 The lists, where maintained, shall be subject to periodic review and re-establishment, where appropriate, by advertising. It is to be noted that Department of Health guidance in CONCODE provides for the list to be re-established by advertisement every five years.

9.7.3 The lists, where maintained, shall include all firms who have applied for permission to tender and as to whose technical and financial competence the Director of Finance is satisfied.

9.7.4 Where the Director of Finance is not satisfied with the technical and financial competence of the firms, the firms are to be removed from the list of approved suppliers, where maintained, and no tenders or quotations are to be accepted or invited from such firms.

9.7.5 Where no lists are maintained by the Trust, the Director of Finance is to be informed of all firms who have been invited to provide tenders or quotations by the Trust and subsequent to the opening of the tenders, shall determine whether such tenders or quotations received are to be accepted by the Trust by reference to their technical and financial competence (as detailed in paragraph 9.12.5).

9.8 INVITATIONS TO TENDER

9.8.1 All invitations to tender on a competitive basis shall be in accordance with the Board's agreed procedures and be submitted in either:

- (a) hard copy (as used by the Estates Department);
- (b) electronically using the Bravo solution e-tendering portal (as used by the Procurement Department).

- 9.8.2 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.
- 9.8.3 For electronic returns the 'Sealed' option for viewing responses shall be used.
- 9.8.4 Every tender for goods, materials, services or disposals shall embody the NHS Standard Contract Conditions that the tender shall be awarded under.
- 9.8.5 Every tender for building and engineering work, except any tender for maintenance work only (where Capital Investment Manual 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 Departmental guidance and other instructions and, in minor respects, to cover special features of individual projects.
- 9.8.6 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.
- 9.8.7 All invitations to tender shall require tenderers to submit prices exclusive of VAT. Tenderers shall state the applicable VAT separately.

9.9 RECEIPT AND SAFE CUSTODY OF TENDERS

- 9.9.1 The 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.
- 9.9.2 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 B of this Appendix.
- 9.9.3 The date and time of receipt of each tender by the Trust Secretary shall be endorsed on the unopened tender envelope/package and recorded in the appropriate register (as detailed in paragraph 9.9.2).
- 9.9.4 For electronic tender returns, tenders may not be 'opened' or supplier information viewed until the pre-defined time and date for opening has passed.

9.10 OPENING TENDERS

- 9.10.1 For hard copy tender returns, as soon as practicable after the date and time stated as being the latest time for the receipt of tenders, they shall be opened by two senior officers/managers officers designated by the Chief Executive and not from the originating department. The originating department will be taken to mean the Department sponsoring or commissioning the tender.

- 9.10.2 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.
- 9.10.3 For any tenders with a value greater than £1 million, the tenders must be opened in the additional presence of an Executive Director.
- 9.10.4 All eligible tenders received shall be opened on one and the same occasion.
- 9.10.5 Every tender received shall be endorsed with the date of opening and initialled by at least two of those present at the opening, at least one of whom shall be a Director in circumstances outlined in paragraph 9.10.2.
- 9.10.6 A record of the opening of the tenders shall be maintained in the appropriate register (as detailed in paragraph 9.9.2). The record is to be signed by at least two persons present at the opening of the tenders, in accordance with paragraph 9.10.2 as appropriate. The record shall show for each set of competitive tenders:
- (a) the name of all firms invited to tender, details of which shall not be supplied to those designated officers responsible for receipt and opening until after the date of return;
 - (b) the names of firms from which tenders have been received;
 - (c) the date the tenders were opened;
 - (d) the price tendered (excluding VAT).
- 9.10.7 Except as in paragraph 9.10.8 below, a record shall be retained within the appropriate register (as detailed in paragraph 9.9.2) 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 9.10.5 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.
- 9.10.8 A record shall be made in the addendum to the appropriate register (as detailed in paragraph 9.9.2), if the price alterations are so numerous on any one tender as to render the procedure outlined in paragraph 9.10.6 unreasonable in the opinion of the Chief Executive or the Trust Secretary.
- 9.10.9 All records required to be maintained shall be held in the custody of the Trust Secretary.

9.11 ADMISSIBILITY OF TENDERS

- 9.11.1 Late tenders shall not be considered where other tenders received have already been opened, except in the circumstances described in paragraphs 9.11.2 and 9.11.3 below.
- 9.11.2 Technically late tenders are those despatched in good time but delayed beyond the due time for the receipt of tenders through no fault of the tenderers. Such tenders may be regarded as having arrived in due time by the Chief Executive or the Trust Secretary and a permanent signed record kept of the reasons, where the signed record shall be retained as an addendum to the appropriate register (as detailed in paragraph 9.9.2).
- 9.11.3 Late tenders shall only be considered in circumstances, to be determined by the Chief Executive or the Director of Finance, which would be of advantage to the Trust. Such circumstances may be where significant financial, technical or delivery advantages would accrue to the Trust and the Chief Executive and the Director of Finance are satisfied that there is no reason to doubt the bona-fides of the tenderers concerned. In such circumstances, the tender may be considered and a permanent signed record shall be kept of the reasons, where the signed record shall be retained as an addendum to the appropriate register (as detailed in paragraph 9.9.2).
- 9.11.4 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 9.11.6 to 9.11.8 below.
- 9.11.5 Amended or re-submitted tenders shall not be considered after the due time for receipt.
- 9.11.6 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 signed record of the nature of the discussion and its outcome shall be kept, where the signed record shall be retained as an addendum to the appropriate register (as detailed in paragraph 9.9.2).
- 9.11.7 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 signed record of the nature of the discussions and their outcomes shall be kept. In these circumstances, the signed record shall be retained as an addendum to the appropriate register (as detailed in paragraph 9.9.2).
- 9.11.8 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 Trust Secretary.

9.12 ACCEPTANCE OF TENDERS

9.12.1 Non-Competitive Tenders

9.12.1.1 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 9.9.2).

9.12.1.2 In circumstances where either no tender is received by the Trust or the Chief Executive or his/her nominated officer determine that the price to be paid is not fair and reasonable, the Chief Executive shall empower the Director responsible for the originating department to approach firms which the Director is aware can provide the relevant goods or services to the Trust. The Director shall report, in writing:

- (a) the content and outcome of their discussions with the approached firms;
- (b) the agreed prices for the provision of the specified goods or services;
- (c) their recommendations as to which firms shall provide the goods or services to the Trust.

9.12.1.3 The Director shall forward the record (as detailed in paragraph 9.12.1.2) to the Director of Finance, the Chief Executive or the Trust Board for approval of their recommendations as per the financial limits detailed in paragraph 9.4.1.

9.12.1.4 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.

9.12.2 Building, Engineering and Maintenance Works

If the number of tenders received is insufficient to provide adequate competition, or tenders are late, amended, incomplete, qualified, or otherwise not strictly competitive, in the opinion of the Chief Executive or his/her nominated officer, they shall be dealt with in accordance with Department of Health guidance extant or guidance obtained for the purpose of the particular case. Such guidance can be found, for example, in CONCODE - which can be obtained for reference purposes from the Director of Finance. Competitive tendering cannot be waived for building and engineering construction works, maintenance (other than in accordance with CONCODE) without the Department of Health's approval.

9.12.3 Basis for Acceptance of a Tender

9.12.3.1 The basis for the acceptance of a tender shall be that which is the most economical advantageous to the Trust and this may be, but is not necessarily, that with the lowest price where payment is made by the Trust. If the lowest price is not accepted then the good and sufficient reasons shall be set out in either the contract file or other appropriate record.

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

- (i) price
- (ii) quality
- (iii) delivery date
- (iv) capital expenditure implications
- (v) revenue expenditure implications

- (vi) cost effectiveness
- (vii) aesthetic characteristics
- (viii) functional characteristics
- (viii) technical merit
- (ix) after sales merit
- (x) technical assistance
- (xi) any other relevant criteria.

9.12.3.3 The basis for the acceptance of a tender shall be kept in a signed record, signed in accordance with paragraph 9.10.5. The signed record shall be retained as an addendum to the appropriate register (as detailed in paragraph 9.9.2).

9.12.4 Tender Other than the Lowest

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

9.12.4.2 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 9.9.2).

9.12.5 Financial Competence

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. 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. 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.

9.12.6 Technical & Organisational Competence

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

9.12.6.2 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 (as detailed in paragraph 9.12.6.1).

9.13 POST-TENDER NEGOTIATIONS

Post tender negotiations with the successful tenderer shall only be carried out with the 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.

9.14 DISPOSALS

9.14.1 Paragraph 4 (Competitive Tendering) of this Appendix 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.

9.15 IN HOUSE SERVICES

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.

9.16 FORMS OF CONTRACT

9.16.1 Every contract for building and engineering works, except contracts for maintenance work only, where Department of Health Capital Investment Manual guidance shall be followed, shall embody as much of the JCT as are of this Appendix). 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.

9.16.2 **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 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.

9.16.3 Determination of Contracts for Failure to Deliver Goods or Material – 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.

9.16.4 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.

9.16.5 Anyone tasked with entering into contract negotiations to seek legal advice from Trust Solicitors and other professional groups such as counter fraud.

9.17 ADVANCED/PHASED PAYMENTS

Advance/phased payments, except those made for capital building projects as laid down conditions of contract, are only to be made in exceptional circumstances and shall only be made following the agreement of the Chief Executive and the Director of Finance. 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.

9.18 APPLICATION OF LIQUIDATED AND ASCERTAINED DAMAGES ON CONSTRUCTION CONTRACTS

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.

9.19 REPORTING OF TENDER ACTIVITY

9.19.1 The Trust Secretary shall report to the Board any tenders received and the names of those organisations tendering.

9.19.2 After the analysis of tenders by the senior manager responsible has completed then the Trust Secretary shall report to the Board for noting in the Part II meeting:

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

- 9.19.3 This report is to be presented as soon as practicable after tenders have been opened.
- 9.19.4 The senior manager responsible for the procurement shall provide the Trust Secretary with sufficient information to enable the reporting required at paragraph 9.19.2.

9.20 PRIVATE FINANCE INITIATIVE

- 9.20.1 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:
- 9.20.2 The Chief Executive shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector.
- 9.20.3 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.
- 9.20.4 The proposal must be specifically agreed by the Board.
- 9.20.5 The selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

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

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

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.

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 conditions 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 Human Resources 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 Human Resources & Organisation Development 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 Human Resources & Organisation Development 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:

- (g) methods of payment available to various categories of employee;
- (h) procedures for payment by cheque, bank credit to employees;
- (i) procedure for the recall of cheques and bank credits;
- (j) maintenance of regular and independent reconciliation of pay control accounts;
- (k) separation of duties of preparing records and handling cash; and

- (l) a system to ensure the recovery from those leaving the employment of LAS 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 Director of Human Resources & Organisation Development's instructions and in the form prescribed by the Director of Human Resources & Organisation Development;
- (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 Human Resources & Organisation Development must be informed immediately.

11.4.5 Regardless of the arrangements for providing service, the HR Director & Organisation Development 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 Human Resources & Organisation Development 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.
- (e) 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 LAS 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 LAS. In so doing, the advice of the LAS' adviser on supply shall be sought. Where this advice is not acceptable to the requisitioner, the Director of Finance (and/or the Chief Executive) shall be consulted.

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, year to date, to become overspent.

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 LAS, this is part of the contractual agreement between the Shared Financial Services and LAS.

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 LAS 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 LAS 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 LAS' 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 SHA for approval prior to commitment.
- (c) contracts above specified thresholds are advertised and awarded in accordance with EU on public procurement.
- (d) 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 LAS 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 LAS' Standing Orders are compatible with the requirements issued by the NHS in respect of building and engineering contracts (CONCODE) 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 to Strategic Health Authorities regarding resource and capital allocation and funding the 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 "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 “ESTATECODE” guidance and the LAS’ 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 scheme included in DH publication “Delegated limits for capital investment’.

15.2 PRIVATE FINANCE

15.2.1 When the LAS 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 LAS shall maintain an asset register 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, as set out in the Capital Accounting Manual as issued by the Department of Health.

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 methods specified in the Capital Accounting Manual issued by the Department of Health.

15.3.7 The value of each asset shall be depreciated using methods and rates as specified in the Capital Accounting Manual issued by the Department of Health.

15.3.8 The Director of Finance shall calculate and pay capital charges as specified in the Capital Accounting manual issued by the Department of Health.

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) identification of all repairs and maintenance expenses;
- (d) physical security of assets;
- (e) periodic verification of the existence of, condition of, and title to, assets recorded;
- (f) identification and reporting of all costs associated with the retention of an asset; and
- (g) reporting, recording and safekeeping of cash, cheques, and negotiable instruments.

- 15.4.3 All discrepancies revealed by verification of physical assets to 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 LAS, 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 LAS' 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 LAS 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 Operations by the Chief Executive. 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 shall be the responsibility of the Directors of Operations; the control of fuel and oil of the Fleet Manager.
- 16.3 The responsibility for security arrangements and the custody of keys for all stores and locations shall be clearly defined in writing by the Directors 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 Directors of Operations 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 LAS 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.

17.2.3 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 CFOS regional team in accordance with Secretary of State for Health's Directions.

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, and

(b) 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 LAS' 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 Information Management and Technology, who are responsible for the accuracy and security of the computerised financial data of the LAS, shall:

(a) devise and implement any necessary procedures to ensure adequate (reasonable) protection of the LAS' 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;

(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 LAS by the Shared Financial Services. The detailed requirements are specified in the Service Level Agreement with the contractual agreements between the LAS 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 Information Management & Technology shall publish and maintain a Freedom of Information (FOI) Publication Scheme, or adopt a model Publication Scheme approved by the Information Commissioner. A Publication Scheme is a complete guide to the information routinely published by a public authority. It describes the classes or types of information about our Trust that we make 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 Information Management and Technology 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. normally those applications which the majority of Trusts in an NHS area wish to sponsor jointly) all responsible directors and employees will send to the Director of Information Management and Technology:
- (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 you are 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 DPA.

19 RISK ASSESSMENT

The Director of Finance and the Director of Information Management and Technology 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 Finance 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 Adviser. 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 Adviser, 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 donors 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 LAS' 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 LAS is the beneficiary;
- (c) be empowered, on behalf of the LAS, 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 Legal Adviser, 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 Adviser, deal with all arrangements for fund-raising by and/or on behalf of the LAS and ensure compliance with all statutes and regulations;
- (b) be empowered to liaise with other organisations/persons raising funds for the LAS 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 Advisers, for alerting the Board to any irregularities regarding the use of the LAS' name or its registration numbers; and
- (d) be responsible, after due consultation with the Legal adviser, 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 Adviser and other designated officers, for any trading undertaken by the LAS as corporate trustee; and
- (b) be primarily responsible, along with the Legal Adviser, 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 Adviser, 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 Adviser, 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 LAS' 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 LAS; 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 LAS 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 LAS 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 LAS NHS 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 Head of Legal Services, 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**

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 Head of Records Management 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 Statement on the effectiveness of Internal Control (SIC) 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 Finance shall ensure that the arrangements entered into are appropriate and complementary to the risk management programme. The Director of Finance shall ensure that documented procedures cover these arrangements.
- 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.