Ashford and St. Peter's Hospitals NHS
NHS Foundation Trust

TRUST BOARD
31st March 2011

TITLE	**NHS Constitution – a review**
EXECUTIVE SUMMARY	The NHS Constitution came into force in January 2010 and was updated in April 2010. There is a legal requirement for all NHS organisations to comply. As part of the Board's self certification for the Annual Plan submission, the Board needs to be assured that due regard is paid to the Constitution. One important aspect of the Constitution is the maintenance of waiting time pledges; the Trust has consistently achieved these over the last year.
BOARD ASSURANCE (RISK)/ IMPLICATIONS	Thought-out the year the Board receives a range of information and reports which directly underpin the rights and responsibilities placed on it by the Constitution. However these are often not 'badged' as demonstrating compliance. This report summarises how the Board can be assured.
STAKEHOLDER/ PATIENT IMPACT AND VIEWS	The Constitution sets out what patients and users of the service have a right to expect, as well as their own responsibilities. It also details the rights and responsibilities of staff.
EQUALITY AND DIVERSITY ISSUES	Having due regard to the equality and diversity of our staff, patients and visitors is fundamental to the Constitution.
LEGAL ISSUES	There is a legal requirement to comply with the Constitution.
The Trust Board is asked to:	Consider the assurance given by the report.
Submitted by:	Jane Gear, Head of Corporate Affairs on behalf of Andrew Liles, Chief Executive
Date:	13 March 2011
Decision:	For noting

TRUST BOARD
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The NHS CONSTITUTION

1. Background

Following a widespread consultation exercise the NHS Constitution was first published in January 2009. It was originally developed as part of the NHS Next Stage Review led by Lord Darzi.

The aim of the Constitution is to protect and renew the enduring principles of the NHS. It empowers staff, patients and the public by setting out existing legal rights and pledges for the first time in one place. The Constitution also sets out clear expectations about behaviours and values of all organisations providing NHS care.

2. Documentation

All organisations were provided with copies of The NHS Constitution (12 pages), and a supporting handbook (145 pages).

3. The Constitution

The Constitution establishes the **principles** and **values** of the NHS in England. It sets out **rights** to which patients, public and staff are entitled, and the **pledges** which the NHS is committed to achieve, together with **responsibilities** which the public, patients and staff owe to one another.

All NHS Bodies , private and third sector providers supplying NHS services are required by law to take account of this Constitution in their decisions and actions.

The Constitution will be renewed every 10 years.

Rights are effectively legal rights.

Pledges relate to things the NHS is committed to achieve and go above and beyond legal rights. Pledges are not legally binding but represent a commitment by the NHS.

The Constitution is divided into 3 main sections:

1. Principles that guide the NHS
2. Patients and the Public
3. Staff

For both 2 and 3 there are sub divisions giving:

- Rights and pledges
- Responsibilities

A summary of the Constitution is given below.

The Constitution also includes a section on NHS values.

4. The Handbook

The Handbook essentially provides further and more detailed explanation of each of the rights and pledges. It is to be renewed every three years, and in respect of patient expectations links back to the NHS Operating Framework.

Similarly, in the Section on Staff Rights, it provides a clear linkage between the right and the Employment Law, Best Practice or central (ie. DoH) guidance supporting the Right.

5. Legislative Framework

The Health Act 2009 included provisions related to the NHS Constitution. These came into force on 19 January 2010 with the following legal duties:

- That NHS organisations are legally required to take account of the Constitution in performing their NHS functions.

- That the Government makes the Constitution available to patients, staff and members of the public and reviews it at least every ten years.

- That the Government produces a report every three years on how it has affected patients, staff and members of the public.

A consultation proposing the inclusion of new rights in the NHS Constitution was held between November 2009 and February 2010.

Following that consultation, a new right to waiting times came into effect in April 2010. The Handbook was amended to explain what the new right to waiting times meant. (detail given in Appendix).

The Constitution and Handbook recognise that staff are essential for the NHS to deliver the objective of delivering better quality care. It is the commitment, professionalism and dedication of staff working for the benefit of the people the NHS serves which makes the difference. High quality care requires high quality workplaces with employers aiming to be the employer of choice. Staff therefore need to have rewarding and worthwhile jobs with freedom and confidence to act in the interest of patients. They need to have the tools, training and support to deliver care, and opportunities to develop and progress.

6 Impact at Ashford and St Peter's Hospitals NHS Foundation Trust

There is a legal duty to comply with the Constitution.

Monitor is consulting on the appropriateness of there being a requirement for Foundation Trusts to comment on compliance with the Constitution in their Annual Report. Nevertheless there is a Monitor requirement for Boards to self certify compliance in the Annual Plan submission.

At each Trust Board, and also at its formal sub committees, a wealth of information is available which supports delivery of the Constitution. The Board receives the Compliance Framework reports monthly where we report against all the waiting times pledges made in the Constitution (18 weeks etc). However often other information is not 'badged' or otherwise specifically identified as supporting implementation of the Constitution.

One important aspect of the Constitution is the maintenance of waiting time pledges; the Trust has consistently achieved these over the last year.

A high-level summary is therefore produced below demonstrating how the Board can be assured on compliance with the terms of the Constitution.

7 Conclusion

The Board is asked to consider and note the report.

Summary of Constitution and Ashford and St Peter's Hospitals NHS Foundation Trust's compliance

PRINCIPLES THAT GUIDE THE NHS

1. The NHS provides a comprehensive service available to all irrespective of gender, race, disability, age, sexual orientation, religion or belief.

2. Access to NHS services is based on clinical need not an individual's ability to pay.

3. The NHS aspires to the highest standards of excellence and professionalism.

4. NHS services must reflect the needs and preferences of patients, their families and carers.

5. The NHS works across organisational boundaries and in partnership with other organisations.

6. The NHS is committed to providing best value for taxpayers' money and the most effective, fair and sustainable use of finance resources.

7. The NHS is accountable to the public, communities and patients that it serves.

Patients and the Public

	Access to Health Service	
	Rights	Sources of assurance
	➢ Right to receive NHS services free of charge apart from certain limited exceptions	➢ Annual Plan ➢ Annual Report ➢ Compliance Framework Report with information on waiting times ➢ Balanced Scorecard ➢ Equality and Diversity Steering Group with Single Equality Scheme Action Plan, and reporting to Board. ➢ Open Trust Board meetings ➢ Multi agency working including reports to Trust Board on cross organisational working e.g. North West Surrey Transformation Board and Future Models of Care work
	➢ Right to access NHS services	
	➢ Right to expect your local NHS to assess the health requirements of the local community.	
	➢ You have the right in certain circumstances to go to other EEA countries for treatment.	
	➢ You have the right not to be unlawfully discriminated against in the provision of NHS services.	
	Pledges	
	➢ To provide convenient easy access to services within defined waiting times. (Extended in 2010)	
	➢ To make decisions in a clear and transparent way on planning and	

	delivering services.	
	➢ To make the transition as smooth as possible when you are referred between services.	
	<u>Quality of care & environment</u>	
	<u>Rights</u>	
	➢ Right to be treated with a professional standard of care by appropriately qualified and experienced staff.	➢ CQC registration and compliance with Essential Standards ➢ Balanced scorecard ➢ Quality Framework
	➢ Right to expect NHS organisations to monitor and improve the quality of healthcare.	➢ Integrated Governance and risk framework ➢ Quality Governance assessment as part of Foundation Trust application ➢ Dedicated Patient Experience Improvement Programme ➢ Results from national and local staff and patient surveys ➢ Net promoter scores ➢ Comprehensive Leadership and Management Development Framework ➢ Structured Leadership and Management Development Directory – tailored programmes for Ward sisters, Speciality Leads and Heads of Professions ➢ Mandatory training programme
	<u>Pledges</u>	
	➢ To ensure that services are provided in a clean and safe environment that is fit for Purpose.	➢ PEAT programme ➢ Essential Spot checks ➢ Monitoring programme for facilities
	➢ To continuously improve the quality of services you receive based on Best Practice.	➢ Reports to Board on cross organisational working e.g. NWS Transformation Board and Future Models of Care. ➢ Benchmarked Clinical data. ➢ Quality strategy ➢ EQUIP
	<u>Nationally approved treatments-, drugs and programmes</u>	
	<u>Rights</u>	
	➢ Right to drugs and treatments that have been recommended for NICE for use in the NHS if they are clinically appropriate for you.	➢ Clinical Effectiveness and Audit Group
	➢ Right to expect local decisions on funding of other drugs and treatments to be made rationally.	
	➢ Right to receive vaccinations that the	

	Joint Committee recommends you should receive under national programmes.	
	Pledges	
	➢ To provide screening programmes as recommended by the UK National Screening Committee.	Participate in relevant national screening programmes
	Respect, consent and confidentiality	
	Rights	
	➢ To be treated with dignity and respect.	➢ Equality and Diversity Steering Group ➢ Consent policy ➢ Achievement of NHSLA standards ➢ Patient information leaflets ➢ Access to Health Records monitored ➢ Single Sex Accommodation compliance ➢ Patient Experience Work stream includes Privacy and Dignity
	➢ You have the right to accept or refuse treatment that is offered to you and not to be given any physical examination or treatment unless you are given valid consent. ➢ You have the right to be given information about your proposed treatment in advance including any significant risks.	
	➢ You have the right to privacy and confidentiality. ➢ You have the right to access to your own health records.	
	Pledges	
	➢ to share with you any letters sent between clinicians about your care.	➢ Policy in place and actively implemented
	Informed Choice	
	➢ You have the right to choose your GP practice.	
	➢ You have the right to express a preference for using a particular doctor within your GP practice.	
	➢ You have the right to make choices about your NHS care.	Trust Information on NHS Choices
	Pledges	
	➢ To keep you informed about the health services available to you.	➢ Web site ➢ Press releases ➢ GP communications ➢ Members Matters ➢ Patient literature available in various languages and formats
	➢ To offer you easily accessible, reliable and relevant information.	

		➢ Interpreting service

Involvement in your healthcare and in the NHS

Rights	
➢ You have the right to be involved in discussions and decisions about your healthcare.	➢ Collaborative working with LINk and Overview and Scrutiny Committee ➢ Patient and user involvement e.g. in developing the model for the Renal Service tender ➢ PALs ➢ Patient panel
➢ You have the right to be involved directly or through representations, in the planning of healthcare services.	
Pledges	
➢ To provide you with the information you need to influence and scrutinise the planning and delivery of the NHS.	➢ Open Board Meetings ➢ Publication of Board papers ➢ Freedom of Information ➢ Council of Governors
➢ To work in partnership with you and your family, carers and representatives	

Complaint and redress

Rights	
➢ You have the right to make a complaint and for it to be dealt with efficiently	➢ Complaints Policy and procedure ➢ Information in Quality Report ➢ Complaints Group chaired by Chief Executive ➢ Principles of Remedy agreed ➢ Being Open Policy
➢ You have the right to know the outcome of any investigation.	
➢ You have the right to take your complaint to the Ombudsman	
➢ You have the right to make a claim for judicial review.	
➢ You have the right to compensation where you have been harmed by negligent treatment.	
Pledges	
➢ To treat you with courtesy and to ensure that complaints do not adversely affect your future treatment.	➢ As above and ➢ Root Cause Analysis of serious incidents
➢ To acknowledge mistakes, apologise and to put things right.	
➢ To ensure the organisation learns lessons.	

Patients and the public – your responsibilities.

Responsibilities for the patients and the public are:-

- You should register with a GP practice
- You should treat NHS staff and other patients with respect.
- You should provide accurate information about your health condition.
- You should keep appointments.
- You should follow the course of treatment which you have agreed.
- You should participate in important health programmes.
- You should ensure that those closest to you are aware of your wishes about organ donation.
- You should give feedback.

Staff

Rights	
➢ Legal rights as embodied in general employment and discrimination law.	
Pledges	
These are not legally binding but represent a commitment by the NHS to providing a high quality-working environment for the staff.	
➢ To provide all staff with clear roles and responsibilities.	➢ Clear recruitment framework including Job Descriptions ➢ Appraisal policy ➢ Comprehensive Leadership and Management Development Framework ➢ Structured Leadership and Management Development Directory – tailored programmes for Ward sisters, Speciality Leads and Heads of Professions ➢ Occupational Health Service and calendar of well being events ➢ Active Employee Partnership Forum ➢ Staff engagement demonstrated through high levels of response to national and local staff surveys ➢ The Pledge and underpinning behaviours ➢ Staff governors all elected though competitive elections ➢ EQUIP programme
➢ To provide all staff with personal development and access to training.	
➢ To provide support and opportunities for staff to maintain their health, wellbeing and safety.	
➢ To engage staff in decisions that affect them.	
➢ All staff will be empowered to put forward ways to deliver better and safer services.	

Staff – your responsibilities

Responsibilities for staff are summarised as:

- A duty to accept professional accountability and maintain standards of professional practice.
- A duty to take reasonable care of health and safety at work for themselves, their team and others.
- A duty to act in accordance with the express and implied terms of the Contract of Employment.
- A duty not to discriminate against patients or staff.
- A duty to protect the confidentiality of personal information.
- A duty to be honest and truthful in applying for a job and carrying out that job.

The Constitution also includes expectations of how staff should play their part in ensuring the success of the NHS. Therefore staff should **aim**:

- To maintain the highest standards of care and service.
- To take up training and development opportunities.
- To play a part in sustainably improving services.
- To be open with patients etc. if anything goes wrong.
- To view the services provided from the standpoint of a patient.

(ii) In addition, there are three pledges covering access to health services:

"The NHS commits to provide convenient, easy access to services within the waiting times set out in this Handbook to the NHS Constitution."

(Section 2a of the NHS Constitution)

All patients should receive high-quality care without any unnecessary delay.

The NHS Operating Framework sets the priorities for the NHS over the next year and helps deliver the vision set out in *High Quality Care for All*. Within the Operating Framework, the detail behind this pledge is set out. There are strong NHS systems to ensure delivery of this pledge. Organisations that deliver prompt access to high-quality care will be rewarded by more patients choosing their services and recognition by regulators, e.g. the Care Quality Commission. Organisations' performance will be monitored across all waiting time pledges. Clear thresholds exist giving organisations clarity about what is expected of them by when and interventions should they not deliver.

As now, patients with urgent conditions, such as cancer and heart disease, will be able to be seen and receive treatment more quickly.

There are a number of **government pledges on waiting times**, including:

- a maximum 31-day wait for subsequent treatment where the treatment is surgery;
- a maximum 31-day wait for subsequent treatment where the treatment is an anti-cancer drug regimen;
- a maximum 62-day wait from referral for suspected cancer to first treatment for all cancers;
- a maximum two-week wait to see a specialist for all patients referred for investigation of breast symptoms, even if cancer is not initially suspected;
- a maximum four-hour wait in A&E from arrival to admission, transfer or discharge;
- access to a primary care professional within 24 hours or a primary care doctor within 48 hours;
- a maximum three-month wait for patients who need a revascularisation;
- a maximum two-week wait for Rapid Access Chest Pain Clinics;
- access to a genito-urinary medicine clinic within 48 hours of contacting a service;
- all patients who have operations cancelled, on or after the day of admission (including the day of surgery), for non-clinical reasons to be offered another binding date within 28 days, or the patient's treatment to be funded at the time and hospital of the patient's choice;
- all ambulance trusts to respond to 75 per cent of Category A calls within eight minutes and to respond to 95 per cent of Category A calls within 19 minutes of a request being made for a fully equipped ambulance vehicle (car or ambulance) able to transport the patient in a clinically safe manner; and
- all ambulance trusts to respond to 95 per cent of Category B calls within 19 minutes.