Ashford and St. Peter's Hospitals NHS Foundation Trust

Report title:	**Constitution Committee Chair's Report**		
Report to:	**Public Council of Governors**		
Date of meeting:	Tuesday, 02 June 2026	**Agenda item:**	10.1
Report summary:	The Constitution Committee met on the 19 May. There were three changes to the Constitution were considered. Firstly an amendment to allow for temporary flexibility in the number of NEDs by inclusion of a provision to allow for a temporary 12 month period in excess of the establishment number. Governor challenge around the wording resulted in minor changes to confirm this could only be done for a single 12 month period. Secondly, it was agreed to distinguish between voting and non-voting Executive Board members, reflecting the current situation of having non-voting executives. Finally, the removal of geographic restrictions on where NEDs reside was agreed. The Committee also agreed minor wording changes to its ToR reflecting new job titles (and the committee name itself).		
Recommendation:	**To ratify the Trust Constitution**		
Report lead:	**Joss Bigmore, Group Chair**		
Report author:	**Sal Maughan, Associate Director of Corporate Affairs & Governance**		

Purpose of report:	**For Noting** ☐	**For Decision** ☒	**For Assurance** ☐

Assurance level:	**Significant** ☒ High level of confidence / evidence in delivery	**Acceptable** ☐ General confidence / evidence in delivery	**Partial** ☐ Some confidence / evidence in delivery	**No Assurance** ☐ No confidence / evidence in delivery

Link to Strategic Objectives:	Not applicable
Link to CQC Domains:	WELL LED
Link to BAF risk:	Not applicable
Potential impact on stakeholders:	The amendments are minor in nature and are not anticipated to have any material impact on patients, staff, partners, or Governors.
Next steps	Publish Constitution
Appendices:	Constitution Committee minutes 19 May Trust Constitution

Ashford and St. Peter's Hospitals
NHS Foundation Trust

Council of Governors

Minutes of the Constitution Committee
19th May 2026

Via Microsoft Teams
11:00 – 11:25 hours

PRESENT:	Joss Bigmore	Group Chair
	Sue Bryer	Public Governor, Spelthorne
	Nigel Stapleton	Public Governor, Elmbridge
	Denis Wright	Public Governor, Runnymede, Surrey Heath, Windsor and Maidenhead
IN ATTENDANCE:	Sal Maughan	Associate Director of Corporate Affairs and Governance
	Anu Sehdev	Membership and Engagement Manager
APOLOGIES:	Edwin Addis	Public Governor, Hounslow, Kingston-upon-Thames, Richmond-upon-Thames and Rest of England
	Jo Fanning	Chief People Officer
	Michael Smith	Lead Governor, Public Governor, Woking and Guildford

Minute **Action**

Item 1 Apologies

As noted above.

Item 2 Minutes of the Previous Meeting

The minutes of the meeting held on 6 March 2025 were agreed as a correct record.

Item 3 FT Constitution Review and Update

The Associate Director of Corporate Affairs and Governance (ADCAG) explained that Jane Dale's tenure as a Non-Executive Director (NED) had been extended to provide continuity, resulting in the Board temporarily exceeding its established number of NEDs. The Constitution had therefore been amended to permit this arrangement for a defined period of no more than 12 months.

Concern was raised that the current wording of the constitutional amendment could allow repeated 12 month extensions, potentially creating an indefinite arrangement beyond the intended temporary measure. Committee members suggested strengthening the wording to make clear that extensions would be limited, with one suggestion being to specify that extensions could occur "no more than twice in a three-year period."

The ADCAG reassured members that a detailed paper had been presented to the Council of Governors' Remuneration and Nominations Committee, setting out the rationale for the extension, the proposed timeline for returning to establishment and confirming that the arrangement was not intended to be rolling in nature.

Ashford and St. Peter's Hospitals
NHS Foundation Trust

Minute **Action**

Following discussion, it was agreed that the wording should be made more explicit to ensure that only a single extension could be granted. The ADCAG agreed to amend the Constitution to include clarifying wording, such as "single extension," to address the concerns raised. **ADCAG**

Discussion also took place regarding differences in NED tenure practices between Ashford and St Peter's and the Royal Surrey. It was noted that the Royal Surrey permits NEDs to serve for up to nine years where there are no performance concerns, whereas Ashford and St Peter's generally limits tenure to six years, with extensions considered only in exceptional circumstances.

The ADCAG further explained that the Constitution had been updated to clarify the distinction between voting and non-voting Executive Directors, reflecting the current Board composition in which two Executive Directors are non-voting members.

In addition, the ADCAG advised that the previous restriction preventing more than 25% of NEDs being drawn from the Rest of England constituency had been removed, in line with agreement reached by the Constitution Committee the previous year.

The Committee APPROVED the amendments to the Constitution.

Item 3 Constitution Committee Terms of Reference

The ADCAG explained that the committee's name had been changed from the "Constitution Group Committee" to the "Constitution Committee" to better reflect its remit. The ADCAG also confirmed that the Terms of Reference had been aligned with those of the governance working group at the Royal Surrey.

The Committee APPROVED the proposed amendments.

Item 4 Any Other Business

None

Item 5 Date and Time of Next Meeting

April/May 2027 – to be confirmed

Ashford and St. Peter's Hospitals NHS Foundation Trust

Action Log

Meeting Date	Minute Ref	Topic	Action	Lead	Due Date	Update	Completed
Regular item		**Review constituencies in relation to new outpatient figures**	Obtain up to date outpatient data and arrange a Constitution Committee meeting to review constituencies before the next bout of elections.	AS	May/June 2027		
19.5.26	**Item 3**	**FT Constitution Review and Update**	Make the wording more explicit to ensure only a single extension could be granted.	ADCAG	ASAP	Complete	✔

Ashford and St. Peter's Hospitals
NHS Foundation Trust

ASHFORD AND ST. PETER'S HOSPITALS NHS FOUNDATION TRUST

CONSTITUTION

Ashford and St. Peter's Hospitals
NHS Foundation Trust

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Paragraph

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ANNEX 7 – STANDING ORDERS – COUNCIL OF GOVERNORS
ANNEX 8 – STANDING ORDERS – BOARD OF DIRECTORS

Ashford and St. Peter's Hospitals NHS Foundation Trust

1 Interpretation and definitions

Unless otherwise stated, words or expressions contained in this constitution shall bear the same meaning as in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012 and Health and Care Act 2022.

Words importing the masculine gender only shall include the feminine gender; words importing the singular shall import the plural and vice-versa.

Accounting Officer	means the person who from time to time discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act, as amended.
Annual Members Meeting	is defined in paragraph 11 of the Constitution.
the 2006 Act	means the National Health Service Act 2006, as amended.
the 2012 Act	means the Health and Social Care Act 2012
the 2022 Act	means the Health and Care Act 2022
Appointed Governors	means the Local Authority Governors and the Partnership Organisation Governors specified in Annex 4
Appointing Organisation	means the organisation responsible for appointing the Appointed Governors, as specified in Annex 4
Area of the Trust	means the area consisting of all the areas specified in Annex 1 as an area for the Public Constituency
Board of Directors	means the Board of Directors of the Trust as constituted in accordance with this Constitution and referred to in paragraph 23 and "Board" shall be construed accordingly.
Chair	means the Chair of the Trust appointed in accordance with paragraph 26 of this Constitution.
Chief Executive	means the Chief Officer (and Accounting Officer) of the Trust appointed in accordance with paragraphs 29 of this Constitution.
Class	means one of the six descriptions of individuals who are eligible for Membership of the Staff Constituency in accordance with paragraph 8 of this Constitution.
Committee	shall mean a committee appointed by the Trust.
Committee Member	shall be persons formally appointed by the Trust to sit on or to chair specific Committees.
Constituencies	means the Public Constituencies and the Staff Constituency

Constitution	means this Constitution of Ashford and St. Peter's Hospitals NHS Foundation Trust and all annexes to it.
Council of Governors	means the Council of Governors of the Trust as constituted in accordance with this Constitution
Deputy Chair	means the Non-Executive Director appointed by the Council of Governors to take on the Chair's duties if the Chair is absent for any reason.
Director	means an Executive Director or Non-Executive Director on the Board of Directors
Elected Governors	means the Public Governors and the Staff Governors
Executive Director	means a person appointed as an Executive Director of the Trust under sections 15-19 of Schedule 7 of the 2006 Act and in accordance with paragraph 29 of this Constitution and who is an officer of the Trust.
Chief Financial Officer	means the Director of Finance/ Chief Finance Officer of the Trust
Financial Year	means a period of 12 months ending with 31st March in any year as defined in section 275(1) of the 2006 Act.
Funds Held On Trust	shall mean those funds which the Trust holds at its date of incorporation, receives on distribution by statutory instrument, or chooses subsequently to accept under powers derived under Schedule 6, Paragraph 8 of the 2006 Act. Such funds may or may not be charitable.
Governor	means a Governor on the Council of Governors and being either an Elected Governor or an Appointed Governor
Heath Service Body	means a body which is a health service body for the purpose of Section 9(4) of the 2006 Act
Lead Governor	means the Governor appointed by the Council of Governors whose role is more fully described at Annex 7 paragraph 3.
Local Authority	means a local authority specified in Annex 4, which is a local authority for an area which includes the whole or part of the Area of the Trust
Local Authority Governor	means a member of the Council of Governors appointed by a Local Authority in accordance with the provisions of this Constitution and as specified in Annex 4
Member	means a Member of the Trust as determined in accordance with paragraph 5 of this Constitution.
Membership	means membership of the Trust through being a Member of one of its Constituencies

Membership Strategy	means a document explaining how the Trust will recruit and support an active Membership by engaging Members and Governors in the business of the Trust
Model Election Rules	means the model form rules for the conduct of elections published from time to time by the Department of Health and as currently set out in Annex 5
Motion	means a formal proposition to be discussed and voted on during the course of a meeting.
NHS Foundation Trust Code of Governance	means the Code of Governance published by Monitor (now NHS England) in 2010 or such similar or further guidance as NHSE may publish from time to time.
Nominated Officer	means an Officer charged with the responsibility for discharging specific tasks within SOs and SFIs
Non-Executive Director	means a person appointed as a Non-Executive Director of the Trust under Schedule 7 of the 2006 Act and in accordance with paragraph 26 of this Constitution.
Officer	means an employee of the Trust.
Partnership Organisations	means those organisations designated as partnership organisations for the purposes of this Constitution specified in Annex 4
Partnership Organisation Governor	means each member of the Council of Governors appointed in accordance with the provisions of this Constitution by each of the Partnership Organisations specified in Annex 4
Patients	means individuals who have attended any of the Trust's premises for care.
Public Benefit Corporation	means a body corporate which is constituted in accordance with Schedule 7 of the NHS Act
Public Governor	means a member of the Council of Governors elected by the Members of a Public Constituency;
Public Constituency	means a public constituency of the Trust as defined in Annex 1
Regulator or NHS England	means the corporate body known as NHS England (previously Monitor) as provided by Section 61 of the 2012 Act
Secretary	means the secretary of the Trust or any other person appointed to perform the duties of the Secretary of the Trust
Senior Independent Director	means a Non-Executive Director nominated to the role of Senior Independent Director in accordance with the provisions of this Constitution.

SFIs	means Standing Financial Instructions
Staff Classes	means the classes of the Staff Constituency as specified in Annex 2
Staff Constituency	means that part of the Trust's Membership consisting of the staff of the Trust and other persons as more particularly provided for at paragraph 8 of this Constitution and which is divided into the Staff Classes as specified in Annex 2
Staff Governor	means a member of the Council of Governors elected by a Staff Class
Standing Orders (or SOs)	means whichever of the Standing Orders for the Council of Governors at Annex 7 or the Standing Orders for the Board of Directors at Annex 8 as is relevant.
the Trust	means Ashford and St. Peter's Hospitals NHS Foundation Trust
Trust Volunteers	means those individuals who are eligible to become Members of the Trust Volunteer Staff Class within the Staff Constituency specified in paragraph 5 of Annex 2
Trust's Hospital	means any premises used by the Trust for the provision of goods and services for the purposes of the health service in England falling within the definition of "hospital" in Section 275 of the 2006 Act

2 Name

The name of the foundation trust is Ashford and St. Peter's Hospitals NHS Foundation Trust.

3 Principal Purpose

3.1 The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England.

3.2 The Trust does not fulfil its principal purpose unless, in each Financial Year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provisions of goods and services for any other purpose.

3.3 The Trust may provide goods and services for any purposes related to:

3.3.1 the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness; and

3.3.2 the promotion and protection of public health.

3.4 The Trust may also carry on activities other than those mentioned in the above paragraph for the purpose of making additional income available in order better to carry on its principal purpose.

4 Powers

4.1 The powers of the Trust are set out in the 2012 Act, subject to any restrictions in the Licence.

4.2 All the powers of the Trust shall be exercised by the Board of Directors on behalf of the Trust except for those powers reserved to the Council of Governors.

4.3 Any of these powers may be delegated to a committee of Directors or to an Executive Director.

5 Membership and Constituencies

The Trust shall have Members, each of whom shall be a member of one of the following constituencies:

5.1 a Public Constituency; and

5.2 a Staff Constituency

6 Application for Membership

An individual who is eligible to become a Member of the Trust may do so on application to the Trust.

7 Public Constituency

7.1 An individual who lives in an area specified in Annex 1 as an area for a Public Constituency may become or continue as a Member of the Trust.

7.2 Those individuals who live in an area specified as an area for any Public Constituency are referred to collectively as a Public Constituency.

7.3 The minimum number of Members in each area for the Public Constituency is specified in Annex 1.

7.4 Further provisions relating to Membership of the Public Constituency are set out in Annex 9.

8 Staff Constituency

8.1 An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a member of the Trust provided:

8.1.1 They are employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or

8.1.2 They have been continuously employed by the Trust under a contract of employment for at least 12 months.

8.2 Individuals who exercise functions for the purposes of the Trust, otherwise than under a contract of employment with the Trust, may become or continue as

Members of the Staff Constituency provided such individuals have exercised these functions continuously for a period of at least 12 months, including but not limited to Trust Volunteers.

8.3 Those individuals who are eligible for Membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.

8.4 The Staff Constituency shall be divided into five descriptions of individuals who are eligible for membership of the Staff Constituency, each description of individuals being specified within Annex 2 and being referred to as a class within the Staff Constituency.

8.5 The minimum number of Members in each class of the Staff Constituency is specified in Annex 2.

Automatic Membership by Default – staff

8.6 An individual who is:

8.6.1 eligible to become a Member of the Staff Constituency, and is

8.6.2 invited by the Trust to become a Member of the Staff Constituency and a Member of the appropriate Class within the Staff Constituency, shall become a Member of the Trust as a Member of the Staff Constituency and appropriate Class within the Staff Constituency without an application being made, unless he informs the Trust that he does not wish to do so.

9 Patient Constituency

9.1 Not used

10 Restriction on Membership

10.1 An individual who is a Member of a Constituency, or of a Class within a Constituency, may not, while membership of that Constituency or Class continues, be a member of any other Constituency or Class.

10.2 An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any Constituency other than the Staff Constituency.

10.3 An individual must be at least 14 years old to become a Member of the Trust.

10.4 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Trust are set out in Annex 9 – Further Provisions.

11 Annual Members' Meeting

11.1 The Trust shall hold an annual meeting of its Members (Annual Members Meeting). The Annual Members Meeting shall be open to members of the public.

12 Council of Governors – composition

12.1 The Trust is to have a Council of Governors, which shall comprise both elected and Appointed Governors.

12.2 The composition of the Council of Governors is specified in Annex 4.

12.3 The members of the Council of Governors, other than the appointed members, shall be chosen by election by their Constituency or, where there are Classes within a Constituency, by their Class within that Constituency. The number of Governors to be elected by each Constituency, or, where appropriate, by each Class of each Constituency, is specified in Annex 4.

12.4 The Council of Governors shall nominate one of their Governors to be the Lead Governor.

13 Council of Governors – Election of Governors

13.1 Elections for elected Members of the Council of Governors shall be conducted in accordance with the Model Election Rules.

13.2 The Model Election Rules as published from time to time by the Department of Health form part of this Constitution. The Model Election Rules current at the date of the Trust's Constitution are attached at Annex 5.

13.3 A subsequent variation of the Model Election Rules by the Department of Health shall not constitute a variation of the terms of this Constitution for the purposes of paragraph 45 of this Constitution (amendment of the constitution).

13.4 An election, if contested, shall be by secret ballot.

14 Council of Governors – Tenure

14.1 An elected Governor may hold office for a period of up to 3 years.

14.2 An elected Governor shall cease to hold office if they cease to be a Member of the Constituency or Class by which s/he was elected.

14.3 An elected Governor shall be eligible for re-election at the end of their term, subject to the provisions of paragraph 14.8 below.

14.4 An appointed Governor may hold office for a period of up to 3 years.

14.5 An appointed Governor shall cease to hold office if the appointing organisation withdraws its sponsorship of them or if the appointing organisation ceases to exist and there is no successor in title to it.

14.6 An appointed Governor shall be eligible for re-appointment at the end of their term.

14.7 A Governor shall be eligible for re-election or re-appointment as appropriate at the end of their term.

14.8 A Governor shall not hold office for more than 9 years or 3 terms of office whichever is the least.

14.9 For the purposes of this paragraph 14, "year" means the period of 12 months commencing on authorisation or such other date on which the election or appointment of a Governor takes effect.

14.10 Further provisions relating to a Governor's tenure are set out in Annex 6

15 Council of Governors – Disqualification and removal

15.1 The following may not become or continue as a member of the Council of Governors:

15.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;

15.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it;

15.1.3 a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on them.

15.2 Governors must be at least 16 years of age at the date they are nominated for election or appointment.

15.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors are set out in Annex 6.

15.4 This Constitution makes provision for the removal of Governors in Annex 6C.

16 Council of Governors – Duties of the Governors

16.1 The general duties of the Governors are:

16.1.1 to hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors, and

16.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public

16.2 The Trust must take steps to ensure that the Governors are equipped with the skills and knowledge they require in their capacity as such.

17 Council of Governors – Meetings of Governors

17.1 The Chair of the Trust (i.e. the Chair of the Board of Directors, appointed in accordance with the provisions of paragraph 26 below) or, in their absence the

Deputy Chair (appointed in accordance with the provisions of paragraph 28 below)], shall preside at meetings of the Council of Governors.

17.2 Meetings of the Council of Governors shall be open to members of the public save that members of the public may be excluded from a meeting for grounds specified in Annex 7 Standing Orders for the Council of Governors).

17.3 For the purposes of obtaining information about the Trust's performance of its functions or the Directors' performance of their duties (and deciding whether to propose a vote on the Trust's or Directors' performance) the Council of Governors may require one or more of the Directors to attend a meeting.

18 Council of Governors – Standing Orders

18.1 The Standing Orders for the practice and procedure of the Council of Governors are attached at Annex 7.

19 NO LONGER NEEDED

20 Council of Governors - Conflicts of Interest of Governors

20.1 If a Governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the Governor shall disclose that interest to the members of the Council of Governors as soon as they become aware of it.

20.2 The Standing Orders for the Council of Governors shall make provision for the annual disclosure of interests and arrangements for the exclusion of a Governor declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

21 Council of Governors – Travel Expenses

21.1 The Trust may pay travelling and other expenses to members of the Council of Governors at rates determined by the Trust.

22 Council of Governors – Further Provisions

22.1 Further provisions with respect to the Council of Governors are set out in Annex 6.

23 Board of Directors – Composition

23.1 The Trust is to have a Board of Directors, which shall comprise both Executive and Non-Executive Directors.

23.2 The Board of Directors is to comprise:

23.2.1 A Non-Executive Chair

23.2.2 Up to seven other Non-Executive Directors (excluding the Chair); the Trust may appoint one additional Non-Executive Director on a time-limited basis where required to support Board effectiveness or manage transitional arrangements. Any such additional appointment shall be for a single, defined period not exceeding 12 months and shall not be renewable or extended or taken to permanently vary the established maximum number of Non-Executive Directors.

23.2.3 Up to seven Executive Directors who shall be the voting Executive Directors and statutory members of the Board of Directors.

23.3 One of the Executive Directors shall be the Chief Executive.

23.4 The Chief Executive shall be the Accounting Officer.

23.5 One of the Executive Directors shall be the Chief Finance Officer.

23.6 One of the Executive Directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).

23.7 One of the Executive Directors is to be a registered nurse or a registered midwife.

23.8 The operation of paragraph 23.2 above shall be that at all times at least half of the Board of Directors, excluding the Chair, shall be Non-Executive Directors.

23.9 The Board may determine that additional executive staff may attend meetings of the Board of Directors to provide advice and support. Such individuals may participate in discussions but shall not be statutory Directors under the 2006 Act and shall not have voting rights.

23.10 The Board may invite a person external to the Trust to act as a Special Advisor to the Board. This would be for a specified time period. The Special Advisor would be invited to attend Board meetings although would not be statutory Directors under the 2006 Act

23.11 Professional Indemnity
The Trust provides *professional indemnity* for all staff groups, providing staff are carrying out their duties as directed by the Trust, and in accordance with Trust policy, procedure, clinical guidelines, and professional standards. This is provided through the Trust's membership of the NHS Litigation Authority's Liabilities to Third Parties Scheme (LTPS).

24 Board of Directors – General Duty

The general duty of the Board of Directors and of each Director individually, is to act with a view to promoting the success of the Trust so as to maximise the benefits for the Members of the Trust as a whole and for the public**.**

25 Board of Directors – Qualification for Appointment as a Non-Executive Director

A person may be appointed as Non-Executive Director only if:

25.1 They are a Member of the Public Constituency, and

25.2 They are not disqualified by virtue of paragraph 30 below.

26 Board of Directors – Appointment and removal of Chair and other Non-Executive Directors

26.1 The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the Chair of the Trust and the other non-executive directors.

26.2 Removal of the Chair or another non-executive director shall require the approval of three-quarters of the members of the Council of Governors.

26.3 Where the Trust operates within a group model or collaborates with other NHS organisations, the Chair position may be held jointly with one or more partner trusts. The appointment of a Joint Chair, or of joint Non-Executive Directors, shall be conducted in accordance with NHS England guidance and any applicable statutory requirements.

27 Board of Directors – Appointment of Senior Independent Director

The Board shall, following consultation with the Council of Governors, appoint one of the independent Non-Executive Directors as a Senior Independent Director to act in accordance with Monitor's Code of Governance and the Board's Standing Orders.

28 Board of Directors – Appointment of Deputy Chair

The Council of Governors at a general meeting of the Council of Governors shall appoint one of the non-executive directors as a Deputy Chair.

29 Board of Directors - Appointment and removal of the Chief Executive and other Executive Directors

29.1 The Non-Executive Directors shall appoint or remove the Chief Executive.

29.2 The appointment of the Chief Executive shall require the approval of the Council of Governors.

29.3 A committee consisting of the Chair, the Chief Executive and the other Non-Executive Directors shall appoint or remove the other Executive Directors.

29.4 The Trust may appoint joint Executive Directors, including but not limited to a Group Chief Executive, to work across the Trust and one or more partner NHS organisations. Appointments shall be made through a transparent recruitment process agreed by the collaborating organisations, with oversight from the respective Trust Boards.

30 Board of Directors – Disqualification

The following may not become or continue as a member of the Board of Directors:

30.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged.

30.2 a person who has made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it.

30.3 a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on them.

30.4 a person who falls within further grounds for disqualification as set out in Annex 9D.

31 Board of Directors – Meetings

31.1 Meetings of the Board of Directors shall be open to members of the public. A separate meeting may be held where the public are excluded for 'special reasons'.

31.2 Those matters relating to 'special reasons', as defined in paragraph 31.1, are listed below:

31.2.1 any documents pertaining to litigation or potential litigation;

31.2.2 anything that is potentially commercially sensitive (as well as commercially confidential) for either the Trust or a third party;

31.2.3 any matter concerning an individual patient or member of staff; anything relating to data that may be adjudged "protected" under the Data Protection Act 1998 (DPA); and

31.2.4 Documents that may be exempt from disclosure under the Freedom of Information Act 2000.

31.3 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

32 Board of Directors – Standing Orders

The Standing Orders for the practice and procedure of the Board of Directors are attached at Annex 8.

33 Board of Directors – Conflicts of Interest of Directors

33.1 The duties that a Director of the Trust has by virtue of being a Director include in particular:

33.1.1 a duty to avoid a situation in which the Director has (or can have) a direct or indirect interest that conflicts (or possibly may conflict) with the interest of the Trust;

33.1.2 a duty not to accept a benefit from a third party solely by reason of being a Director or doing (or not doing) anything in that capacity.

33.2 The duty referred to in sub-paragraph 33.1.1 is not infringed if:

33.2.1 the situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

33.2.2 the matter has been authorised in accordance with the Constitution.

33.3 The duty referred to in sub-paragraph 33.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

33.4 In sub-paragraph 33.1.2, "third party" means a person other than:

33.4.1 The Trust, or

33.4.2 a person acting on its behalf.

33.5 If a Director of the Trust has in any way a direct or indirect interest in a proposed transaction or arrangement with the Trust, the Director must declare the nature and extent of that interest to the other Directors.

33.6 If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

33.7 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.

33.8 This paragraph does not require a declaration of an interest of which the director is not aware or where the Director is not aware of the transaction or arrangement in question.

33.9 A Director need not declare an interest:

33.9.1 If it cannot reasonably be regarded as likely to give rise to a conflict of interest;

33.9.2 If, or to the extent that, the Directors are already aware of it;

33.9.3 If, or to the extent that, it concerns terms of the Director's appointment that have been or are to be considered:

33.9.3.1 by a meeting of the Board of Directors, or

33.9.3.2 by a committee of the Directors appointed for the purpose under this Constitution.

33.10 The Board of Directors shall adopt Standing Orders specifying the arrangements for excluding Directors from discussion or consideration of the contract or other matters as appropriate.

34 Board of Directors – remuneration and terms of office

34.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chair and the other Non-Executive Directors.

34.2 The Trust shall establish a committee of Non-Executive Directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other Executive Directors.

35 Registers

The Trust shall have:

35.1 a register of Members showing, in respect of each Member, the Constituency to which s/he belongs and, where there are Classes within it, the Class to which s/he belongs;

35.2 a register of members of the Council of Governors;

35.3 a register of interests of Governors;

35.4 a register of Directors; and

35.5 a register of interests of the Directors.

36 Admission to and Removal from the Registers

36.1 The Trust will comply with the Public Benefit Corporation (Register of Members) Regulations 2004 as amended or updated from time to time.

36.2 The Secretary to the Trust shall remove from the register of members the name of any Member who ceases to be entitled to be a Member under the provisions of the Constitution.

37 Registers – Inspection and Copies

37.1 The Trust shall make the registers specified in paragraph 35 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

37.2 The Trust shall not make any part of its registers available for inspection by members of the public which shows details of any Member of the Trust if the Member so requests.

37.3 So far as the registers are required to be made available:

37.3.1 they are to be available for inspection free of charge at all reasonable times; and

37.3.2 a person who requests a copy of or extract from the registers is to be provided with a copy or extract.

37.4 If the person requesting a copy or extract is not a Member of the Trust, the Trust may impose a reasonable charge for doing so.

38 Documents Available for Public Inspection

38.1 The Trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times:

38.1.1 a copy of the current Constitution

38.1.2 a copy of the latest annual accounts and of any report of the auditor on them;

38.1.3 a copy of the latest Annual Report

38.2 The Trust shall also make the following documents relating to a special administration of the Trust available for inspection by members of the public free of charge at all reasonable times:

38.2.1 a copy of any order made under section 65D (appointment of trust special administrator), 65J (power to extend time), 65KC (action following Secretary of State's rejection of final report), 65L (trusts coming out of administration) or 65LA (trusts to be dissolved) of the 2006 Act.

38.2.2 a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act.

38.2.3 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act.

38.2.4 a copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act.

38.2.5 a copy of any notice published under section 65F (administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA (Monitor's decision), 65KB (Secretary of State's response to Monitor's decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act.

38.2.6 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act.

38.2.7 a copy of any final report published under section 65I (administrator's final report).

38.2.8 a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act.

38.2.9 a copy of any information published under section 65M (replacement of trust special administrator) of the 2006 Act.

38.2.10 a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act.

38.3 Any person who requests a copy of or extract from any of the above documents is to be provided with a copy.

38.4 If the person requesting a copy or extract is not a Member of the Trust, the Trust may impose a reasonable charge for doing so.

39 Auditor

39.1 The Trust shall have an auditor

39.2 The Council of Governors shall appoint or remove the auditor at a general meeting of the Council of Governors.

40 Audit & Risk Committee

The Trust shall establish a committee of Non-Executive Directors as an Audit & Risk Committee to perform such monitoring, reviewing and other functions as are appropriate.

41 Accounts

41.1 The Trust must keep proper accounts and proper records in relation to the accounts.

41.2 NHS England may with the approval of the Secretary of State give directions to the Trust as to the content and form of its accounts.

41.3 The accounts are to be audited by the Trust's auditor.

41.4 The Trust shall prepare in respect of each Financial Year annual accounts in such form as NHS England may with the approval of the Secretary of State direct.

41.5 The functions of the Trust with respect to the preparation of the annual accounts shall be delegated to the Accounting Officer.

42 Annual Report, Forward Plans and Non NHS Work

42.1 The Trust shall prepare an Annual Report and send it to NHS England.

42.2 The Trust shall give information as to its forward planning in respect of each Financial Year to NHS England.

42.3 The document containing the information with respect to forward planning (referred to above) shall be prepared by the Directors.

42.4 In preparing the document, the Directors shall have regard to the views of the Council of Governors.

42.5 Each forward plan must include information about:

42.5.1 the activities other than the provision of goods and services for the purposes of the Health Service in England that the Trust proposes to carry on, and

42.5.2 the income it expects to receive from doing so.

42.6 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 42.5.1 the Council of Governors must

42.6.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfillment by the Trust of its principal purpose or the performance of its other functions; and

42.6.2 notify the Directors of the Trust of its determination.

42.7 A proposal to increase by 5% or more the proportion of the Trust's total income in any Financial Year attributable to activities other than the provision of goods and services for the purposes of the health service in England may only be implemented if more than half of the members of Council of Governors of the Trust voting approve its implementation.

43 Presentation of the Annual Accounts and Report to the Governors and Members

43.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors:

43.1.1 the annual accounts

43.1.2 any report of the auditor on them

43.1.3 the annual report.

43.2 The documents shall also be presented to the Members of the Trust at the Annual Members Meeting with at least one member of the Board of Directors in attendance.

43.3 The Trust may combine a meeting of the Council of Governors convened for the purposes of sub-paragraph 43.1 with the Annual Members' Meeting.

43.5 Nothing in sub-paragraph 43.2 shall prevent the Governors from holding a general meeting more than once a year.

44 Instruments

44.1 The Trust shall have a seal.

44.2 The seal shall not be affixed except under the authority of the Board of Directors.

45 Amendment of the Constitution

45.1 The Trust may make amendments of this Constitution only if:

45.1.1 more than half of the members of the Council of Governors of the Trust voting approve the amendments, and

45.1.2 more than half of the members of the Board of Directors of the Trust voting approve the amendments.

45.2 Amendments made under paragraph 45.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as this Constitution would, as a result of the amendment, not accord with schedule 7 of the 2012 Act.

45.3 Where an amendment is made to this Constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust):

45.3.1 At least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment, and

45.3.2 The Trust must give the Members an opportunity to vote on whether they approve the amendment.

45.4 If more than half of the Members voting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the Trust must take such steps as are necessary as a result.

45.5 Amendments by the Trust of this Constitution are to be notified to NHS England. For the avoidance of doubt, NHS England's functions do not include a power or duty to determine whether or not the Constitution, as a result of the amendments, accords with Schedule 7 of the 2012 Act.

46 Mergers and Significant Transactions

46.1 The Trust may only apply for a merger, acquisition, separation or dissolution with the approval of more than half of the members of the Council of Governors.

46.2 The Trust may enter into a significant transaction only if more than half of the members of the Council of Governors of the Trust voting approve entering into the transaction.

46.3 For the purposes of paragraph 46.2 'Significant transaction' means:

46.3.1 the acquisition or disposition of, or an agreement to acquire or dispose, whether contingent or not, assets the value of which is more than 25% of the value of the Trust's gross assets before the acquisition or disposition; or

46.3.2 a transaction that has or is likely to have the effect of the Trust acquiring rights or interests or incurring obligations or liabilities, including contingent liabilities, the value of which is more than 25% of the value of the Trust's gross assets before the transaction; or

46.3.3 a transaction where the annual income, attributable to the assets or the contract (excluding contracts with NHS bodies commissioning NHS services from the Trust) associated with the transaction divided by the annual income of the foundation trust, is 25% or greater; or

46.3.4 a transaction where the gross capital of the organisation being acquired or disposed divided by the total capital of the foundation trust following completion is 25% or greater; or

46.3.5 any change to current patient service provision (or the commencement of new service provision) which accounts for more than 25% of the Trust's annual gross expenditure; or

46.3.6 the sale of land which is greater than 10% of the current site by area on either the St Peter's or Ashford site.

46.4 For the purpose of this paragraph (above):

46.4.1 "gross assets" means the total of fixed assets and current assets according to the latest published audited annual accounts.

46.4.2 "gross capital" equals the market value, as determined by the Directors in good faith, of the target's shares and debt securities, plus the excess of current liabilities over current assets.

46.4.3 "gross expenditure" means the total annual expenditure of the Trust according to its latest published audited annual accounts.

46.4.4 in assessing the value of any contingent liability for the purposes of sub-paragraph 46.3.2, the Directors:

46.4.4.1 must have regard to all circumstances that the Directors know, or ought to know, affect, or may affect, the value of the contingent liability; and

46.4.4.2 may rely on estimates of the contingent liability that are reasonable in the circumstances; and

46.4.4.3 may take account of the likelihood of the contingency occurring.

Ashford and St. Peter's Hospitals
NHS Foundation Trust

Constitution Committee

Terms of Reference
2026

1. Constitution

The Trust hereby resolves to establish a Committee to be known as the Constitution Committee. This is a permanent Committee.

2. Authority

The Constitution Committee is directly accountable to the Council of Governors and Board of Directors. All minutes of committee meetings will be reported directly to the Council of Governors and Trust Board. The Committee has no formal powers, other than those specifically delegated in these Terms of Reference.

The Constitution Committee will act in accordance with NHS England's Code of Governance and current best practice.

3. Aim

The purpose of the Constitution Committee is to review and agree changes to the Trust's Constitution, prior to submission to the Council of Governors and Trust Board for approval.

4. Membership

The Committee shall consist of seven members.

- The Chair of the Foundation Trust
- An Executive Director
- Five public governors, comprised as follows:
    - Four public governors (preferably from different constituencies)
    - Lead Governor

Only members of the Committee as detailed above will attend Committee meetings.

The Chair shall act as Chair of the Committee. In their absence, the Deputy Chair or Senior Independent Director will chair the meeting.

The Associate Director of Corporate Affairs & Governance /Membership and Engagement Manager (acting as secretary to the Committee) will be in attendance.

Ashford and St. Peter's Hospitals NHS Foundation Trust

5. Attendance

Deputies will not be permitted.

6. Quorum

The quorum necessary for the transaction of business shall be four members, which must as a minimum consist of:

- The Chair, Deputy Chair or the Senior Independent Director
- Three public governors

7. Frequency and Conduct

The Committee shall meet at least annually.

8. Secretary

The Committee will be supported administratively by the Corporate Governance Manager or Membership and Engagement Manager.

Papers will be circulated one week in advance of meetings.

Minutes of Committee meetings will be circulated promptly to all members of the Committee and will be presented to the next formal meeting of the Council.

9. Monitoring

The Committee will, at least once a year, review its own performance and Terms of Reference to ensure it is operating at maximum effectiveness and recommend any changes it considers necessary to the Council of Governors for approval.

Approved by Council

Date: May 2026

Ashford and St. Peter's Hospitals
NHS Foundation Trust

ASHFORD AND ST. PETER'S HOSPITALS NHS FOUNDATION TRUST

CONSTITUTION

Reviewed and updated May 2026

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1 Interpretation and definitions

Unless otherwise stated, words or expressions contained in this constitution shall bear the same meaning as in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012 and Health and Care Act 2022.

Words importing the masculine gender only shall include the feminine gender; words importing the singular shall import the plural and vice-versa.

Accounting Officer	means the person who from time to time discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act, as amended.
Annual Members Meeting	is defined in paragraph 11 of the Constitution.
the 2006 Act	means the National Health Service Act 2006, as amended.
the 2012 Act	means the Health and Social Care Act 2012
the 2022 Act	means the Health and Care Act 2022
Appointed Governors	means the Local Authority Governors and the Partnership Organisation Governors specified in Annex 4
Appointing Organisation	means the organisation responsible for appointing the Appointed Governors, as specified in Annex 4
Area of the Trust	means the area consisting of all the areas specified in Annex 1 as an area for the Public Constituency
Board of Directors	means the Board of Directors of the Trust as constituted in accordance with this Constitution and referred to in paragraph 23 and "Board" shall be construed accordingly.
Chair	means the Chair of the Trust appointed in accordance with paragraph 26 of this Constitution.
Chief Executive	means the Chief Officer (and Accounting Officer) of the Trust appointed in accordance with paragraphs 29 of this Constitution.
Class	means one of the six descriptions of individuals who are eligible for Membership of the Staff Constituency in accordance with paragraph 8 of this Constitution.
Committee	shall mean a committee appointed by the Trust.
Committee Member	shall be persons formally appointed by the Trust to sit on or to chair specific Committees.
Constituencies	means the Public Constituencies and the Staff Constituency
Constitution	means this Constitution of Ashford and St. Peter's Hospitals NHS Foundation Trust and all annexes to it.

Council of Governors	means the Council of Governors of the Trust as constituted in accordance with this Constitution
Deputy Chair	means the Non-Executive Director appointed by the Council of Governors to take on the Chair's duties if the Chair is absent for any reason.
Director	means an Executive Director or Non-Executive Director on the Board of Directors
Elected Governors	means the Public Governors and the Staff Governors
Executive Director	means a person appointed as an Executive Director of the Trust under sections 15-19 of Schedule 7 of the 2006 Act and in accordance with paragraph 29 of this Constitution and who is an officer of the Trust.
Chief Financial Officer	means the Director of Finance/ Chief Finance Officer of the Trust
Financial Year	means a period of 12 months ending with 31st March in any year as defined in section 275(1) of the 2006 Act.
Funds Held On Trust	shall mean those funds which the Trust holds at its date of incorporation, receives on distribution by statutory instrument, or chooses subsequently to accept under powers derived under Schedule 6, Paragraph 8 of the 2006 Act. Such funds may or may not be charitable.
Governor	means a Governor on the Council of Governors and being either an Elected Governor or an Appointed Governor
Heath Service Body	means a body which is a health service body for the purpose of Section 9(4) of the 2006 Act
Lead Governor	means the Governor appointed by the Council of Governors whose role is more fully described at Annex 7 paragraph 3.
Local Authority	means a local authority specified in Annex 4, which is a local authority for an area which includes the whole or part of the Area of the Trust
Local Authority Governor	means a member of the Council of Governors appointed by a Local Authority in accordance with the provisions of this Constitution and as specified in Annex 4
Member	means a Member of the Trust as determined in accordance with paragraph 5 of this Constitution.
Membership	means membership of the Trust through being a Member of one of its Constituencies
Membership Strategy	means a document explaining how the Trust will recruit and support an active Membership by engaging Members and Governors in the business of the Trust

Model Election Rules	means the model form rules for the conduct of elections published from time to time by the Department of Health and as currently set out in Annex 5
Motion	means a formal proposition to be discussed and voted on during the course of a meeting.
NHS Foundation Trust Code of Governance	means the Code of Governance published by Monitor (now NHS England) in 2010 or such similar or further guidance as NHSE may publish from time to time.
Nominated Officer	means an Officer charged with the responsibility for discharging specific tasks within SOs and SFIs
Non-Executive Director	means a person appointed as a Non-Executive Director of the Trust under Schedule 7 of the 2006 Act and in accordance with paragraph 26 of this Constitution.
Officer	means an employee of the Trust.
Partnership Organisations	means those organisations designated as partnership organisations for the purposes of this Constitution specified in Annex 4
Partnership Organisation Governor	means each member of the Council of Governors appointed in accordance with the provisions of this Constitution by each of the Partnership Organisations specified in Annex 4
Patients	means individuals who have attended any of the Trust's premises for care.
Public Benefit Corporation	means a body corporate which is constituted in accordance with Schedule 7 of the NHS Act
Public Governor	means a member of the Council of Governors elected by the Members of a Public Constituency;
Public Constituency	means a public constituency of the Trust as defined in Annex 1
Regulator or NHS England	means the corporate body known as NHS England (previously Monitor) as provided by Section 61 of the 2012 Act
Secretary	means the secretary of the Trust or any other person appointed to perform the duties of the Secretary of the Trust
Senior Independent Director	means a Non-Executive Director nominated to the role of Senior Independent Director in accordance with the provisions of this Constitution.
SFIs	means Standing Financial Instructions
Staff Classes	means the classes of the Staff Constituency as specified in Annex 2
Staff Constituency	means that part of the Trust's Membership consisting of the staff of the Trust and other persons as more particularly provided for at

	paragraph 8 of this Constitution and which is divided into the Staff Classes as specified in Annex 2
Staff Governor	means a member of the Council of Governors elected by a Staff Class
Standing Orders (or SOs)	means whichever of the Standing Orders for the Council of Governors at Annex 7 or the Standing Orders for the Board of Directors at Annex 8 as is relevant.
the Trust	means Ashford and St. Peter's Hospitals NHS Foundation Trust
Trust Volunteers	means those individuals who are eligible to become Members of the Trust Volunteer Staff Class within the Staff Constituency specified in paragraph 5 of Annex 2
Trust's Hospital	means any premises used by the Trust for the provision of goods and services for the purposes of the health service in England falling within the definition of "hospital" in Section 275 of the 2006 Act

2 Name

The name of the foundation trust is Ashford and St. Peter's Hospitals NHS Foundation Trust.

3 Principal Purpose

3.1 The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England.

3.2 The Trust does not fulfil its principal purpose unless, in each Financial Year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provisions of goods and services for any other purpose.

3.3 The Trust may provide goods and services for any purposes related to:

3.3.1 the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness; and

3.3.2 the promotion and protection of public health.

3.4 The Trust may also carry on activities other than those mentioned in the above paragraph for the purpose of making additional income available in order better to carry on its principal purpose.

4 Powers

4.1 The powers of the Trust are set out in the 2012 Act, subject to any restrictions in the Licence.

4.2 All the powers of the Trust shall be exercised by the Board of Directors on behalf of the Trust except for those powers reserved to the Council of Governors.

4.3 Any of these powers may be delegated to a committee of Directors or to an Executive Director.

5 Membership and Constituencies

The Trust shall have Members, each of whom shall be a member of one of the following constituencies:

5.1 a Public Constituency; and

5.2 a Staff Constituency

6 Application for Membership

An individual who is eligible to become a Member of the Trust may do so on application to the Trust.

7 Public Constituency

7.1 An individual who lives in an area specified in Annex 1 as an area for a Public Constituency may become or continue as a Member of the Trust.

7.2 Those individuals who live in an area specified as an area for any Public Constituency are referred to collectively as a Public Constituency.

7.3 The minimum number of Members in each area for the Public Constituency is specified in Annex 1.

7.4 Further provisions relating to Membership of the Public Constituency are set out in Annex 9.

8 Staff Constituency

8.1 An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a member of the Trust provided:

8.1.1 They are employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or

8.1.2 They have been continuously employed by the Trust under a contract of employment for at least 12 months.

8.2 Individuals who exercise functions for the purposes of the Trust, otherwise than under a contract of employment with the Trust, may become or continue as Members of the Staff Constituency provided such individuals have exercised these functions continuously for a period of at least 12 months, including but not limited to Trust Volunteers.

8.3 Those individuals who are eligible for Membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.

8.4 The Staff Constituency shall be divided into five descriptions of individuals who are eligible for membership of the Staff Constituency, each description of individuals

being specified within Annex 2 and being referred to as a class within the Staff Constituency.

8.5 The minimum number of Members in each class of the Staff Constituency is specified in Annex 2.

Automatic Membership by Default – staff

8.6 An individual who is:

8.6.1 eligible to become a Member of the Staff Constituency, and is

8.6.2 invited by the Trust to become a Member of the Staff Constituency and a Member of the appropriate Class within the Staff Constituency, shall become a Member of the Trust as a Member of the Staff Constituency and appropriate Class within the Staff Constituency without an application being made, unless he informs the Trust that he does not wish to do so.

9 Patient Constituency

9.1 Not used

10 Restriction on Membership

10.1 An individual who is a Member of a Constituency, or of a Class within a Constituency, may not, while membership of that Constituency or Class continues, be a member of any other Constituency or Class.

10.2 An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any Constituency other than the Staff Constituency.

10.3 An individual must be at least 14 years old to become a Member of the Trust.

10.4 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Trust are set out in Annex 9 – Further Provisions.

11 Annual Members' Meeting

11.1 The Trust shall hold an annual meeting of its Members (Annual Members Meeting). The Annual Members Meeting shall be open to members of the public.

12 Council of Governors – composition

12.1 The Trust is to have a Council of Governors, which shall comprise both elected and Appointed Governors.

12.2 The composition of the Council of Governors is specified in Annex 4.

12.3 The members of the Council of Governors, other than the appointed members, shall be chosen by election by their Constituency or, where there are Classes within a Constituency, by their Class within that Constituency. The number of

Governors to be elected by each Constituency, or, where appropriate, by each Class of each Constituency, is specified in Annex 4.

12.4 The Council of Governors shall nominate one of their Governors to be the Lead Governor.

13 Council of Governors – Election of Governors

13.1 Elections for elected Members of the Council of Governors shall be conducted in accordance with the Model Election Rules.

13.2 The Model Election Rules as published from time to time by the Department of Health form part of this Constitution. The Model Election Rules current at the date of the Trust's Constitution are attached at Annex 5.

13.3 A subsequent variation of the Model Election Rules by the Department of Health shall not constitute a variation of the terms of this Constitution for the purposes of paragraph 45 of this Constitution (amendment of the constitution).

13.4 An election, if contested, shall be by secret ballot.

14 Council of Governors – Tenure

14.1 An elected Governor may hold office for a period of up to 3 years.

14.2 An elected Governor shall cease to hold office if they cease to be a Member of the Constituency or Class by which s/he was elected.

14.3 An elected Governor shall be eligible for re-election at the end of their term, subject to the provisions of paragraph 14.8 below.

14.4 An appointed Governor may hold office for a period of up to 3 years.

14.5 An appointed Governor shall cease to hold office if the appointing organisation withdraws its sponsorship of them or if the appointing organisation ceases to exist and there is no successor in title to it.

14.6 An appointed Governor shall be eligible for re-appointment at the end of their term.

14.7 A Governor shall be eligible for re-election or re-appointment as appropriate at the end of their term.

14.8 A Governor shall not hold office for more than 9 years or 3 terms of office whichever is the least.

14.9 For the purposes of this paragraph 14, "year" means the period of 12 months commencing on authorisation or such other date on which the election or appointment of a Governor takes effect.

14.10 Further provisions relating to a Governor's tenure are set out in Annex 6

15 Council of Governors – Disqualification and removal

15.1 The following may not become or continue as a member of the Council of Governors:

15.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;

15.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it;

15.1.3 a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on them.

15.2 Governors must be at least 16 years of age at the date they are nominated for election or appointment.

15.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors are set out in Annex 6.

15.4 This Constitution makes provision for the removal of Governors in Annex 6C.

16 Council of Governors – Duties of the Governors

16.1 The general duties of the Governors are:

16.1.1 to hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors, and

16.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public

16.2 The Trust must take steps to ensure that the Governors are equipped with the skills and knowledge they require in their capacity as such.

17 Council of Governors – Meetings of Governors

17.1 The Chair of the Trust (i.e. the Chair of the Board of Directors, appointed in accordance with the provisions of paragraph 26 below) or, in their absence the Deputy Chair (appointed in accordance with the provisions of paragraph 28 below)], shall preside at meetings of the Council of Governors.

17.2 Meetings of the Council of Governors shall be open to members of the public save that members of the public may be excluded from a meeting for grounds specified in Annex 7 Standing Orders for the Council of Governors*).*

17.3 For the purposes of obtaining information about the Trust's performance of its functions or the Directors' performance of their duties (and deciding whether to propose a vote on the Trust's or Directors' performance) the Council of Governors may require one or more of the Directors to attend a meeting.

18 Council of Governors – Standing Orders

18.1 The Standing Orders for the practice and procedure of the Council of Governors are attached at Annex 7.

19 NO LONGER NEEDED

20 Council of Governors - Conflicts of Interest of Governors

20.1 If a Governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the Governor shall disclose that interest to the members of the Council of Governors as soon as they become aware of it.

20.2 The Standing Orders for the Council of Governors shall make provision for the annual disclosure of interests and arrangements for the exclusion of a Governor declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

21 Council of Governors – Travel Expenses

21.1 The Trust may pay travelling and other expenses to members of the Council of Governors at rates determined by the Trust.

22 Council of Governors – Further Provisions

22.1 Further provisions with respect to the Council of Governors are set out in Annex 6.

23 Board of Directors – Composition

23.1 The Trust is to have a Board of Directors, which shall comprise both Executive and Non-Executive Directors.

23.2 The Board of Directors is to comprise:

23.2.1 A Non-Executive Chair

23.2.2 Up to seven other Non-Executive Directors (excluding the Chair); the Trust may appoint one additional Non-Executive Director on a time-limited basis where required to support Board effectiveness or manage transitional arrangements. Any such additional appointment shall be for a single, defined period not exceeding 12 months and shall not be renewable or extended or taken to permanently vary the established maximum number of Non-Executive Directors.

23.2.3 Up to seven Executive Directors who shall be the voting Executive Directors and statutory members of the Board of Directors.

23.3 One of the Executive Directors shall be the Chief Executive.

23.4 The Chief Executive shall be the Accounting Officer.

23.5 One of the Executive Directors shall be the Chief Finance Officer.

23.6 One of the Executive Directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).

23.7 One of the Executive Directors is to be a registered nurse or a registered midwife.

23.8 The operation of paragraph 23.2 above shall be that at all times at least half of the Board of Directors, excluding the Chair, shall be Non-Executive Directors.

23.9 The Board may determine that additional executive staff may attend meetings of the Board of Directors to provide advice and support. Such individuals may participate in discussions but shall not be statutory Directors under the 2006 Act and shall not have voting rights.

23.10 The Board may invite a person external to the Trust to act as a Special Advisor to the Board. This would be for a specified time period. The Special Advisor would be invited to attend Board meetings although would not be statutory Directors under the 2006 Act

23.11 Professional Indemnity
The Trust provides *professional indemnity* for all staff groups, providing staff are carrying out their duties as directed by the Trust, and in accordance with Trust policy, procedure, clinical guidelines, and professional standards. This is provided through the Trust's membership of the NHS Litigation Authority's Liabilities to Third Parties Scheme (LTPS).

24 Board of Directors – General Duty

The general duty of the Board of Directors and of each Director individually, is to act with a view to promoting the success of the Trust so as to maximise the benefits for the Members of the Trust as a whole and for the public**.**

25 Board of Directors – Qualification for Appointment as a Non-Executive Director

A person may be appointed as Non-Executive Director only if:

25.1 They are a Member of the Public Constituency, and

25.2 They are not disqualified by virtue of paragraph 30 below.

26 Board of Directors – Appointment and removal of Chair and other Non-Executive Directors

26.1 The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the Chair of the Trust and the other non-executive directors.

26.2 Removal of the Chair or another non-executive director shall require the approval of three-quarters of the members of the Council of Governors.

26.3 Where the Trust operates within a group model or collaborates with other NHS organisations, the Chair position may be held jointly with one or more partner trusts. The appointment of a Joint Chair, or of joint Non-Executive Directors, shall

be conducted in accordance with NHS England guidance and any applicable statutory requirements.

27 Board of Directors – Appointment of Senior Independent Director

The Board shall, following consultation with the Council of Governors, appoint one of the independent Non-Executive Directors as a Senior Independent Director to act in accordance with Monitor's Code of Governance and the Board's Standing Orders.

28 Board of Directors – Appointment of Deputy Chair

The Council of Governors at a general meeting of the Council of Governors shall appoint one of the non-executive directors as a Deputy Chair.

29 Board of Directors - Appointment and removal of the Chief Executive and other Executive Directors

29.1 The Non-Executive Directors shall appoint or remove the Chief Executive.

29.2 The appointment of the Chief Executive shall require the approval of the Council of Governors.

29.3 A committee consisting of the Chair, the Chief Executive and the other Non-Executive Directors shall appoint or remove the other Executive Directors.

29.4 The Trust may appoint joint Executive Directors, including but not limited to a Group Chief Executive, to work across the Trust and one or more partner NHS organisations. Appointments shall be made through a transparent recruitment process agreed by the collaborating organisations, with oversight from the respective Trust Boards.

30 Board of Directors – Disqualification

The following may not become or continue as a member of the Board of Directors:

30.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged.

30.2 a person who has made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it.

30.3 a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on them.

30.4 a person who falls within further grounds for disqualification as set out in Annex 9D.

31 Board of Directors – Meetings

31.1 Meetings of the Board of Directors shall be open to members of the public. A separate meeting may be held where the public are excluded for 'special reasons'.

31.2 Those matters relating to 'special reasons', as defined in paragraph 31.1, are listed below:

31.2.1 any documents pertaining to litigation or potential litigation;

31.2.2 anything that is potentially commercially sensitive (as well as commercially confidential) for either the Trust or a third party;

31.2.3 any matter concerning an individual patient or member of staff; anything relating to data that may be adjudged "protected" under the Data Protection Act 1998 (DPA); and

31.2.4 Documents that may be exempt from disclosure under the Freedom of Information Act 2000.

31.3 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

32 Board of Directors – Standing Orders

The Standing Orders for the practice and procedure of the Board of Directors are attached at Annex 8.

33 Board of Directors – Conflicts of Interest of Directors

33.1 The duties that a Director of the Trust has by virtue of being a Director include in particular:

33.1.1 a duty to avoid a situation in which the Director has (or can have) a direct or indirect interest that conflicts (or possibly may conflict) with the interest of the Trust;

33.1.2 a duty not to accept a benefit from a third party solely by reason of being a Director or doing (or not doing) anything in that capacity.

33.2 The duty referred to in sub-paragraph 33.1.1 is not infringed if:

33.2.1 the situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

33.2.2 the matter has been authorised in accordance with the Constitution.

33.3 The duty referred to in sub-paragraph 33.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

33.4 In sub-paragraph 33.1.2, "third party" means a person other than:

33.4.1 The Trust, or

33.4.2 a person acting on its behalf.

33.5 If a Director of the Trust has in any way a direct or indirect interest in a proposed transaction or arrangement with the Trust, the Director must declare the nature and extent of that interest to the other Directors.

33.6 If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

33.7 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.

33.8 This paragraph does not require a declaration of an interest of which the director is not aware or where the Director is not aware of the transaction or arrangement in question.

33.9 A Director need not declare an interest:

33.9.1 If it cannot reasonably be regarded as likely to give rise to a conflict of interest;

33.9.2 If, or to the extent that, the Directors are already aware of it;

33.9.3 If, or to the extent that, it concerns terms of the Director's appointment that have been or are to be considered:

33.9.3.1 by a meeting of the Board of Directors, or

33.9.3.2 by a committee of the Directors appointed for the purpose under this Constitution.

33.10 The Board of Directors shall adopt Standing Orders specifying the arrangements for excluding Directors from discussion or consideration of the contract or other matters as appropriate.

34 Board of Directors – remuneration and terms of office

34.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chair and the other Non-Executive Directors.

34.2 The Trust shall establish a committee of Non-Executive Directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other Executive Directors.

35 Registers

The Trust shall have:

35.1 a register of Members showing, in respect of each Member, the Constituency to which s/he belongs and, where there are Classes within it, the Class to which s/he belongs;

35.2 a register of members of the Council of Governors;

35.3 a register of interests of Governors;

35.4 a register of Directors; and

35.5 a register of interests of the Directors.

36 Admission to and Removal from the Registers

36.1 The Trust will comply with the Public Benefit Corporation (Register of Members) Regulations 2004 as amended or updated from time to time.

36.2 The Secretary to the Trust shall remove from the register of members the name of any Member who ceases to be entitled to be a Member under the provisions of the Constitution.

37 Registers – Inspection and Copies

37.1 The Trust shall make the registers specified in paragraph 35 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

37.2 The Trust shall not make any part of its registers available for inspection by members of the public which shows details of any Member of the Trust if the Member so requests.

37.3 So far as the registers are required to be made available:

37.3.1 they are to be available for inspection free of charge at all reasonable times; and

37.3.2 a person who requests a copy of or extract from the registers is to be provided with a copy or extract.

37.4 If the person requesting a copy or extract is not a Member of the Trust, the Trust may impose a reasonable charge for doing so.

38 Documents Available for Public Inspection

38.1 The Trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times:

38.1.1 a copy of the current Constitution

38.1.2 a copy of the latest annual accounts and of any report of the auditor on them;

38.1.3 a copy of the latest Annual Report

38.2 The Trust shall also make the following documents relating to a special administration of the Trust available for inspection by members of the public free of charge at all reasonable times:

38.2.1 a copy of any order made under section 65D (appointment of trust special administrator), 65J (power to extend time), 65KC (action following Secretary of State's rejection of final report), 65L (trusts coming out of administration) or 65LA (trusts to be dissolved) of the

2006 Act.

38.2.2 a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act.

38.2.3 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act.

38.2.4 a copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act.

38.2.5 a copy of any notice published under section 65F (administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA (Monitor's decision), 65KB (Secretary of State's response to Monitor's decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act.

38.2.6 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act.

38.2.7 a copy of any final report published under section 65I (administrator's final report).

38.2.8 a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act.

38.2.9 a copy of any information published under section 65M (replacement of trust special administrator) of the 2006 Act.

38.2.10 a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act.

38.3 Any person who requests a copy of or extract from any of the above documents is to be provided with a copy.

38.4 If the person requesting a copy or extract is not a Member of the Trust, the Trust may impose a reasonable charge for doing so.

39 Auditor

39.1 The Trust shall have an auditor

39.2 The Council of Governors shall appoint or remove the auditor at a general meeting of the Council of Governors.

40 Audit & Risk Committee

The Trust shall establish a committee of Non-Executive Directors as an Audit & Risk Committee to perform such monitoring, reviewing and other functions as are appropriate.

41 Accounts

41.1 The Trust must keep proper accounts and proper records in relation to the accounts.

41.2 NHS England may with the approval of the Secretary of State give directions to the Trust as to the content and form of its accounts.

41.3 The accounts are to be audited by the Trust's auditor.

41.4 The Trust shall prepare in respect of each Financial Year annual accounts in such form as NHS England may with the approval of the Secretary of State direct.

41.5 The functions of the Trust with respect to the preparation of the annual accounts shall be delegated to the Accounting Officer.

42 Annual Report, Forward Plans and Non NHS Work

42.1 The Trust shall prepare an Annual Report and send it to NHS England.

42.2 The Trust shall give information as to its forward planning in respect of each Financial Year to NHS England.

42.3 The document containing the information with respect to forward planning (referred to above) shall be prepared by the Directors.

42.4 In preparing the document, the Directors shall have regard to the views of the Council of Governors.

42.5 Each forward plan must include information about:

42.5.1 the activities other than the provision of goods and services for the purposes of the Health Service in England that the Trust proposes to carry on, and

42.5.2 the income it expects to receive from doing so.

42.6 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 42.5.1 the Council of Governors must

42.6.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfillment by the Trust of its principal purpose or the performance of its other functions; and

42.6.2 notify the Directors of the Trust of its determination.

42.7 A proposal to increase by 5% or more the proportion of the Trust's total income in any Financial Year attributable to activities other than the provision of goods and services for the purposes of the health service in England may only be implemented if more than half of the members of Council of Governors of the Trust voting approve its implementation.

43 Presentation of the Annual Accounts and Report to the Governors and Members

43.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors:

43.1.1 the annual accounts

43.1.2 any report of the auditor on them

43.1.3 the annual report.

43.2 The documents shall also be presented to the Members of the Trust at the Annual Members Meeting with at least one member of the Board of Directors in attendance.

43.3 The Trust may combine a meeting of the Council of Governors convened for the purposes of sub-paragraph 43.1 with the Annual Members' Meeting.

43.5 Nothing in sub-paragraph 43.2 shall prevent the Governors from holding a general meeting more than once a year.

44 Instruments

44.1 The Trust shall have a seal.

44.2 The seal shall not be affixed except under the authority of the Board of Directors.

45 Amendment of the Constitution

45.1 The Trust may make amendments of this Constitution only if:

45.1.1 more than half of the members of the Council of Governors of the Trust voting approve the amendments, and

45.1.2 more than half of the members of the Board of Directors of the Trust voting approve the amendments.

45.2 Amendments made under paragraph 45.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as this Constitution would, as a result of the amendment, not accord with schedule 7 of the 2012 Act.

45.3 Where an amendment is made to this Constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust):

45.3.1 At least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment, and

45.3.2 The Trust must give the Members an opportunity to vote on whether

they approve the amendment.

45.4 If more than half of the Members voting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the Trust must take such steps as are necessary as a result.

45.5 Amendments by the Trust of this Constitution are to be notified to NHS England. For the avoidance of doubt, NHS England's functions do not include a power or duty to determine whether or not the Constitution, as a result of the amendments, accords with Schedule 7 of the 2012 Act.

46 Mergers and Significant Transactions

46.1 The Trust may only apply for a merger, acquisition, separation or dissolution with the approval of more than half of the members of the Council of Governors.

46.2 The Trust may enter into a significant transaction only if more than half of the members of the Council of Governors of the Trust voting approve entering into the transaction.

46.3 For the purposes of paragraph 46.2 'Significant transaction' means:

46.3.1 the acquisition or disposition of, or an agreement to acquire or dispose, whether contingent or not, assets the value of which is more than 25% of the value of the Trust's gross assets before the acquisition or disposition; or

46.3.2 a transaction that has or is likely to have the effect of the Trust acquiring rights or interests or incurring obligations or liabilities, including contingent liabilities, the value of which is more than 25% of the value of the Trust's gross assets before the transaction; or

46.3.3 a transaction where the annual income, attributable to the assets or the contract (excluding contracts with NHS bodies commissioning NHS services from the Trust) associated with the transaction divided by the annual income of the foundation trust, is 25% or greater; or

46.3.4 a transaction where the gross capital of the organisation being acquired or disposed divided by the total capital of the foundation trust following completion is 25% or greater; or

46.3.5 any change to current patient service provision (or the commencement of new service provision) which accounts for more than 25% of the Trust's annual gross expenditure; or

46.3.6 the sale of land which is greater than 10% of the current site by area on either the St Peter's or Ashford site.

46.4 For the purpose of this paragraph (above):

46.4.1 "gross assets" means the total of fixed assets and current assets according to the latest published audited annual accounts.

46.4.2 "gross capital" equals the market value, as determined by the Directors in good faith, of the target's shares and debt securities, plus the excess

of current liabilities over current assets.

46.4.3 "gross expenditure" means the total annual expenditure of the Trust according to its latest published audited annual accounts.

46.4.4 in assessing the value of any contingent liability for the purposes of sub-paragraph 46.3.2, the Directors:

46.4.4.1 must have regard to all circumstances that the Directors know, or ought to know, affect, or may affect, the value of the contingent liability; and

46.4.4.2 may rely on estimates of the contingent liability that are reasonable in the circumstances; and

46.4.4.3 may take account of the likelihood of the contingency occurring.