

CITY HOSPITALS SUNDERLAND NHS FOUNDATION TRUST

DEPARTMENT OF INFORMATION TECHNOLOGY & INFORMATION GOVERNANCE

COUNCIL OF GOVERNORS

MARCH 2016

INFORMATION GOVERNANCE TOOLKIT

1. INTRODUCTION AND BACKGROUND

The Information Governance Toolkit is now in its thirteenth year, and has evolved to the point where it is being used by over 25,000 organisations.

The purpose of this paper is to provide an overview of Information Governance (IG) and the IG Toolkit. The paper will then highlight the process CHS has followed in completing the IG Toolkit, and will summarise the scores for the end of March 2016. Subject to approval, the final submission is to be made on 31st March 2016.

2. WHAT IS INFORMATION GOVERNANCE?

Information Governance is to do with the way organisations process or handle information. It covers personal information (ie that relating to patients/service users and employees), and corporate information (eg financial and accounting records).

Information Governance provides a way for employees to deal consistently with the many different rules about how information is handled, including those set out in:

- The Data Protection Act 1998;
- The Common Law Duty of Confidentiality;
- The Confidentiality NHS Code of Practice;
- The NHS Care Records Guarantee for England;
- The Social Care Records Guarantee for England;
- The international information security standard: ISO/IEC 27002: 2013 and ISO/IEC 27001:2013;
- The Information Security NHS Code of Practice;
- The Records Management NHS Code of Practice;
- The Freedom of Information Act 2000;
- The Human Rights Act article 8;
- The '*Report on the Review of Patient Identifiable Information (The Caldicott Report)*' and the '*Information: To share or not to share? The Information Governance Review (Caldicott 2 Review)*';
- Information: To share or not to share - Government Response to the Caldicott 2 Review.

Whilst a key focus of Information Governance is the use of information about service users, it applies to information and information processing in its broadest sense, and

underpins both clinical and corporate governance. Accordingly it should be afforded appropriate priority.

The four fundamental aims of Information Governance are:

- To support the provision of high quality care by promoting the effective and appropriate use of information;
- To encourage responsible staff to work closely together, preventing duplication of effort and enabling more efficient use of resources;
- To develop support arrangements and provide staff with appropriate tools and support to enable them to discharge their responsibilities to consistently high standards;
- To enable organisations to understand their own performance and manage improvement in a systematic and effective way.

3. WHAT IS THE INFORMATION GOVERNANCE TOOLKIT?

The Information Governance Toolkit is a Department of Health (DH) Policy delivery vehicle that the Health and Social Care Information Centre (HSCIC) is commissioned to develop and maintain. It draws together the legal rules and central guidance set out by DH policy and presents them in a single standard as a set of information governance requirements. The organisations in scope of this are required to carry out self-assessments of their compliance against the IG requirements.

4. WHAT ARE THE IG TOOLKIT REQUIREMENTS?

City Hospitals Sunderland NHS Foundation Trust

For Acute Trusts (including FTs), the IG Toolkit consists of 45 requirements divided across 6 initiatives:

- Information Governance Management;
- Confidentiality and Data Protection Assurance;
- Information Security Assurance;
- Clinical Information Assurance;
- Secondary Uses Assurance;
- Corporate Information Assurance.

Church View Medical Practice

For GP Practices, the IG Toolkit consists of 13 requirements divided across 3 initiatives:

- Information Governance Management;
- Confidentiality and Data Protection Assurance;
- Information Security Assurance.

5. WHAT IS THE PURPOSE OF THE IG ASSESSMENT?

The purpose of the assessment is to enable organisations to measure their compliance against the law and central guidance, and to see whether information is handled correctly and protected from unauthorised access, loss, damage and destruction.

Where partial or non-compliance is revealed, organisations must take appropriate measures (eg assign responsibility, or put in place policies, procedures, processes & guidance for staff), with the aim of making cultural changes and raising Information Governance standards through year-on-year improvements.

The ultimate aim is to demonstrate that the organisation can be trusted to maintain the confidentiality and security of personal information. This in turn increases public confidence that the NHS and its partners can be trusted with personal data.

6. WHO HAS TO CARRY OUT THE IG ASSESSMENT?

All health and social care service providers, commissioners and suppliers must have regard to the Information Governance Toolkit Standard approved by the Standardisation Committee for Care Information (SCCI), which replaces the Information Standards Board (ISB) for Health and Social Care (ISB), and is a sub-group of the National Information Board (NIB).

All organisations that have access to NHS patient data must provide assurances that they are practising good information governance and use the IG Toolkit to evidence this. Where services are commissioned for NHS patients, the commissioner is required to obtain this assurance from the provider organisation and this requirement should be set out in the commissioner-provider contract.

With changes planned to commissioning structures and with increasingly diverse care providers, Sir David Nicholson, and Christopher Graham, Information Commissioner published a joint letter to ensure that everyone continues to give Information Governance the priority and attention it needs. The letter signalled the intention of the NHS and the Information Commissioner's Office to work together in supporting the NHS to deliver good Information Governance. The letter was distributed to all Chief Executives of NHS Trusts and the relevant commissioners or performance regulators at the time (5th September 2011).

It remains Department of Health policy that all bodies that process NHS patient information, for whatever purpose, should provide assurance via the IG Toolkit.

'Personalised Health and Care 2020: a framework for action' published by the National Information Board reinforces the need to build and sustain the trust and confidence of the public in the collection, storage and use of their sensitive personal data. The framework requires that the IG Toolkit is further developed to reflect enhanced Information Governance and data security requirements.

IG Toolkit assessments must be completed and published by all bodies that process the personal confidential data of citizens who access health and adult social care services. These include, but are not limited to:

- NHS organisations (Acute Trusts, Ambulance Trusts, Mental Health Trusts, Clinical Commissioning Groups) including Foundation Trusts and NHS Community Health Providers;
- NHS England;
- The Health and Social Care Information Centre (HSCIC);
- Local Authority Adult Social Care;
- Local Authority Public Health;

- Primary Care providers (Community Pharmacies/Dispensing Appliance Contractors, Dental Practices, Eye Care Services, General Practices);
- DH arms' length bodies that closely support care services (ie executive agencies such as the Medicines and Healthcare Products Regulatory Agency; special health authorities such as the NHS Business Services Authority);
- Bodies commissioned or otherwise contracted to provide services by any of the above;
- Public Health England.

In addition to the NHS mandate above, other organisations are required to provide IG assurances via the IG Toolkit as part of business/service support processes or contractual terms. That is, for these organisations annual IG Toolkit assessments are required for either or both of two purposes:

- To provide IG assurances to the Department of Health or to NHS commissioners of services;
- To provide IG assurances to HSCIC as part of the terms and conditions of using national systems and services including N3, Choose and Book etc.

7. WHO WILL ACCESS THE IG TOOLKIT SUBMISSION?

One of the primary aims of the IG Toolkit process is to force a change in the culture of NHS organisations. In order to do so, the results of the IG Toolkit will be made widely available. Likely scenarios are summarised below:

- The Public: Results and scores for all NHS organisations are now available via the internet for the public, media and other organisations to view;
- The Information Commissioner (ICO): The ICO may choose to access this information to judge IG maturity as part of their investigation into any issue, complaint or incident;
- Care Quality Commission (CQC): The CQC now use the IG Toolkit to assess outcomes in their wider assessments;
- Internal Audit: Accessed as part of assurance on IG and information security programmes;
- External Audit: It is possible that the IG Toolkit submission could be audited externally;
- Commissioners: It is expected that increasingly commissioning bodies will pay further attention to an organisation's IG status as they assess the quality of an organisation and its processes.

8. INFORMATION GOVERNANCE TOOLKIT VERSION 13

Submission Deadlines

Interim submissions have been made, as required, by the following deadlines:

- Baseline assessment by 31 July 2015;
- Performance update by 31 October 2015.

The submission deadline for the final Version 13 assessment for all organisations is:

- Final submission by 31 March 2016.

Evidence Upload

The system allows you to specify evidence to support your assessment (eg a policy or procedure document). You can either upload evidence files directly to the IG Toolkit or reference an internet/intranet address or other location. The system tells you what evidence is expected for each requirement but there is inbuilt flexibility so you can also specify your own additional evidence.

Assessment Scoring

An organisation can see its current (and target) percentage score on the Assessment Summary page. The grading scheme is as follows:

- **Satisfactory** (coloured green): level 2 or level 3 achieved on all requirements.
- **Not Satisfactory** (coloured red): level 2 or level 3 not achieved on all requirements.

The main purpose of the IG Toolkit is to drive improvement, and a 'Not Satisfactory' (red) status is an effective way to get IG high up on the corporate agenda.

9. INFORMATION GOVERNANCE TOOLKIT – 2015/16 ACTIVITIES

CHS has again undertaken a full review of performance against the Information Governance Toolkit ready for the year-end submission to HSCIC for the end of March 2016 (To be approved by Executive Committee, Council of Governors, and Board of Directors). This has been reviewed and approved by CHS Information Governance Group (IGG) on 1st March 2016.

During 2015/16, there has been a continued focus on:

- CHSFT – Reviewing and refreshing/updating all evidence to sustain at least level 2 performance against all requirements;
- CHSFT – Focusing on requirement 209 which pertains to ensuring that all person identifiable data processed outside of the UK complies with the Data Protection Act 1998 and Department of Health guidelines. This requirement was previously deemed as being 'Not Relevant' for CHS;
- Church View – Reviewing and refreshing/updating all evidence to sustain at least level 2 performance against all requirements.

As usual, Sunderland Internal Audit Services (SIAS) has been engaged in the process and is in the final stages of auditing the recommended toolkit submissions for both CHSFT and Church View. SIAS are assessing that:

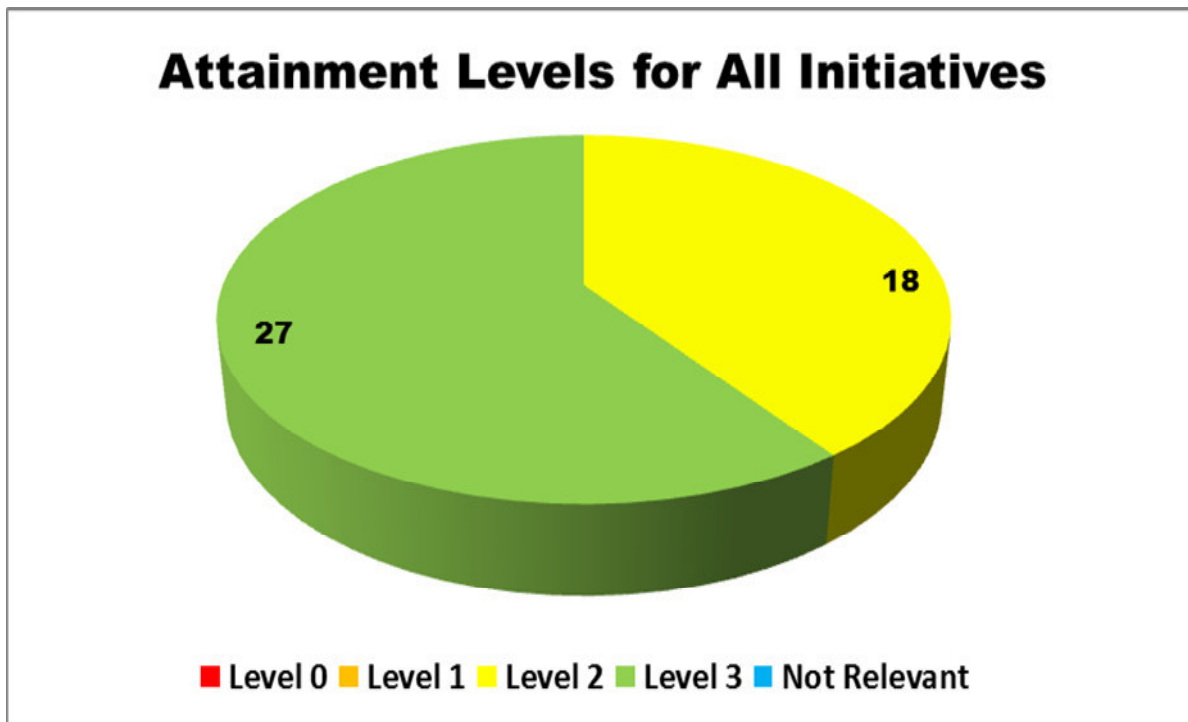
- Appropriate governance arrangements are in place;
- From the evidence, that the submitted IG Toolkit scores are a reasonable assessment of current performance.

Approval is to also be acquired from Executive Committee, Council of Governors and Board of Directors prior to making the final submission.

10. INFORMATION GOVERNANCE TOOLKIT – END MARCH 2015 STATUS

10.1 CITY HOSPITALS SUNDERLAND NHS FOUNDATION TRUST

The following represents the performance level evidenced for CHSFT for the March 2016 submission:



The table shows that of the 45 requirements, all 45 are assessed as being at Level 2 or Level 3. In detail:

- 18 show evidence that complete to Level 2;
- 27 show evidence to Level 3.

To achieve this performance, since the March 2015 submission, the Trust has reviewed and refreshed data against all requirements. Scores have been maintained against all requirements, with the exception of:

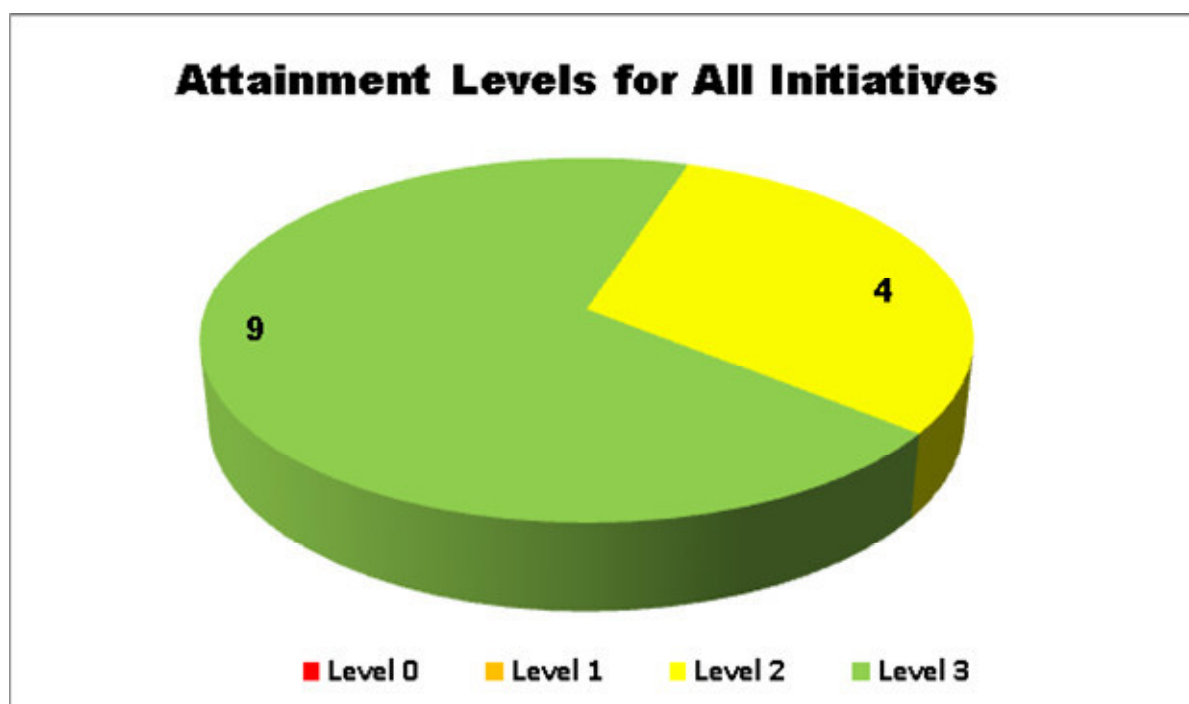
- **12-205** – This rating has reduced from Level 3 to 2 – This is due to a change to requirements set out in Level 3 which stipulates ‘Service Users are provided with online access to their electronic care records without charge’;
- **12-206** – This rating has increased from Level 2 to 3 – This is due to the implementation of USB device control to protect personal and sensitive information. This was further enhanced with the enforcement of CHS encrypted memory sticks only;
- **12-505** – This rating has increased from Level 2 to 3 – This is due to the Clinical Coding Department achieving an improve accuracy score during this year’s annual audit;
- **12-209** – Now rated at Level 2 (Previously deemed as being ‘Not Relevant’ for CHS).

The total percentage compliance for all initiatives is **86%** = **Satisfactory** (coloured **green**).

Details against all 45 requirements are included in **Appendix A**.

10.2 CHURCH VIEW MEDICAL CENTRE

The following represents the performance level evidenced for Church View for the March 2016 submission:



This showed that of the 13 requirements, 13 were assessed as being in at Level 2 or Level 3. In detail:

- 4 show evidence that complete to Level 2;
- 9 show evidence to Level 3.

To achieve this performance, since the March 2015 submission the Trust has reviewed and refreshed evidence against all requirements to maintain these scores.

The total percentage compliance for all initiatives is **89%** = **Satisfactory** (coloured **green**).

Details against all 13 requirements are included in **Appendix B**.

11. CONCLUSIONS & RECOMMENDATIONS

Governors are asked to note the contents of this report and comment accordingly.

Subject to assurance being provided by Sunderland Internal Audit Services, and approval from Executive Committee, Council of Governors and Board of Directors, the scores to be submitted as part of the March 2016 submission are as follows:

11.1 City Hospitals Sunderland NHS Foundation Trust

This showed that of the 45 requirements, 45 were assessed as being in at Level 2 or Level 3. In detail:

- 18 show evidence that complete to Level 2;
- 27 show evidence to Level 3.

The total percentage compliance for all initiatives is **86%** = **Satisfactory** (coloured green).

11.2 Church View Medical Centre

This showed that of the 13 requirements, 13 were assessed as being at Level 2 or Level 3. In detail:

- 4 show evidence that complete to Level 2;
- 9 show evidence to Level 3.

The total percentage compliance for all initiatives is **89%** = **Satisfactory** (coloured green).

Governors are asked to support the submission of the Information Governance Toolkit on 31st March 2016 on this basis.

The final document will be presented to the Board of Directors for approval prior to its submission on 31st March 2016.



Andrew Hart
Director of IT & Information Governance
March 2016

Appendix A – City Hospitals Sunderland’s Requirements/Scores

Information Governance Management						
Req No	Key Req	Description	IGT v12 March 15	IGT v13 March 16	Sponsor	Lead
12-101	Y	There is an adequate Information Governance Management Framework to support the current and evolving Information Governance agenda	3	3	J Pattison	A J Hart
12-105		There are approved and comprehensive Information Governance Policies with associated strategies and/or improvement plans	3	3	J Pattison	A J Hart
12-110	Y	Formal contractual arrangements that include compliance with information governance requirements, are in place with all contractors and support organisations	3	3	J Pattison	P Robinson
12-111	Y	Employment contracts which include compliance with information governance standards are in place for all individuals carrying out work on behalf of the organisation	3	3	K Griffin	D Little
12-112	Y	Information Governance awareness and mandatory training procedures are in place and all staff are appropriately trained	3	3	K Griffin	D Little

Confidentiality and Data Protection Assurance

Req No	Key Req	Description	IGT v11 March 15	IGT v12 March 16	Sponsor	Lead
12-200	Y	The Information Governance agenda is supported by adequate confidentiality and data protection skills, knowledge and experience which meet the organisation's assessed needs	3	3	I Martin	A J Hart
12-201	Y	Staff are provided with clear guidance on keeping personal information secure, on respecting the confidentiality of service users, and on the duty to share information for care purposes	2	2	I Martin	A J Hart
12-202	Y	Personal information is shared for care but is only used in ways that do not directly contribute to the delivery of care services where there is a lawful basis to do so and objections to the disclosure of confidential personal information are appropriately respected	2	2	I Martin	A J Hart
12-203	Y	Individuals are informed about the proposed uses of their personal information	2	2	L Stores	A Anderson
12-205		There are appropriate procedures for recognising and responding to individuals' requests for access to their personal data	3	2	L Stores	A Anderson
12-206		There are appropriate confidentiality audit procedures to monitor access to confidential personal information	2	3	L Stores	A Anderson
12-207		Where required, protocols governing the routine sharing of personal information have been agreed with other organisations	2	2	I Martin	A J Hart
12-209	Y	All person identifiable data processed outside of the UK complies with the Data Protection Act 1998 and Department of Health guidelines	NR	2	I Martin	A J Hart
12-210	Y	All new processes, services, information systems, and other relevant information assets are developed and implemented in a secure and structured manner, and comply with IG security accreditation, information quality and confidentiality and data protection requirements	2	2	A J Hart	S Joyce

Information Security Assurance						
Req No	Key Req	Description	IGT v12 March 15	IGT v13 March 16	Sponsor	Lead
12-300	Y	The Information Governance agenda is supported by adequate information security skills, knowledge and experience which meet the organisation's assessed needs	3	3	A J Hart	S Joyce
12-301	Y	A formal information security risk assessment and management programme for key Information Assets has been documented, implemented and reviewed	2	2	J Pattison	A J Hart
12-302	Y	There are documented information security incident / event reporting and management procedures that are accessible to all staff	2	2	M Johnson	B Frankland
12-303	Y	There are established business processes and procedures that satisfy the organisation's obligations as a Registration Authority	2	2	K Griffin	J Armstrong
12-304	Y	Monitoring and enforcement processes are in place to ensure NHS national application Smartcard users comply with the terms and conditions of use	2	2	K Griffin	J Armstrong
12-305	Y	Operating and application information systems (under the organisation's control) support appropriate access control functionality and documented and managed access rights are in place for all users of these systems	3	3	A J Hart	S Joyce
12-307	Y	An effectively supported Senior Information Risk Owner takes ownership of the organisation's information risk policy and information risk management strategy	3	3	J Pattison	A J Hart
12-308	Y	All transfers of hardcopy and digital person identifiable and sensitive information have been identified, mapped and risk assessed; technical and organisational measures adequately secure these transfers	2	2	J Pattison	A J Hart

12-309		Business continuity plans are up to date and tested for all critical information assets (data processing facilities, communications services and data) and service - specific measures are in place	3	3	J Pattison	A J Hart
12-310		Procedures are in place to prevent information processing being interrupted or disrupted through equipment failure, environmental hazard or human error	3	3	A J Hart	S Joyce
12-311		Information Assets with computer components are capable of the rapid detection, isolation and removal of malicious code and unauthorised mobile code	3	3	A J Hart	S Joyce
12-313	Y	Policy and procedures are in place to ensure that Information Communication Technology (ICT) networks operate securely	3	3	A J Hart	S Joyce
12-314	Y	Policy and procedures ensure that mobile computing and teleworking are secure	2	2	A J Hart	S Joyce
12-323	Y	All information assets that hold, or are, personal data are protected by appropriate organisational and technical measures	2	2	J Pattison	A J Hart
12-324		The confidentiality of service user information is protected through use of pseudonymisation and anonymisation techniques where appropriate	2	2	J Pattison	L Mason

Clinical Information Assurance						
Req No	Key Req	Description	IGT v12 March 15	IGT v13 March 16	Sponsor	Lead
12-400		The Information Governance agenda is supported by adequate information quality and records management skills, knowledge and experience	3	3	C Harries	L Stores
12-401	Y	There is consistent and comprehensive use of the NHS Number in line with National Patient Safety Agency requirements	2	3	J Pattison	M Walls
12-402		Procedures are in place to ensure the accuracy of service user information on all systems and /or records that support the provision of care	3	3	J Pattison	M Walls
12-404		A multi-professional audit of clinical records across all specialties has been undertaken	3	3	I Martin	G Schuster
12-406		Procedures are in place for monitoring the availability of paper health/care records and tracing missing records	3	3	C Harries	L Stores

Secondary Use Assurance						
Req No	Key Req	Description	IGT v12 March 15	IGT v13 March 16	Sponsor	Lead
12-501		National data definitions, standards, values and validation programmes are incorporated within key systems and local documentation is updated as standards develop	3	3	J Pattison	M Walls
12-502		External data quality reports are used for monitoring and improving data quality	3	3	J Pattison	M Walls
12-504		Documented procedures are in place for using both local and national benchmarking to identify data quality issues and analyse trends in information over time, ensuring that large changes are investigated and explained	3	3	J Pattison	M Walls
12-505		An audit of clinical coding, based on national standards, has been undertaken by a Clinical Classifications Service (CCS) approved clinical coding auditor within the last 12 months	3	3	J Pattison	M Walls
12-506		A documented procedure and a regular audit cycle for accuracy checks on service user data is in place	3	3	J Pattison	M Walls
12-507		The Completeness and Validity check for data has been completed and passed	3	3	J Pattison	M Walls
12-508		Clinical/care staff are involved in validating information derived from the recording of clinical/care activity	2	2	J Pattison	M Walls
12-510		Training programmes for clinical coding staff entering coded clinical data are comprehensive and conform to national clinical coding standards	3	3	J Pattison	M Walls

Corporate Information Assurance

Req No	Key Req	Description	IGT v12 March 15	IGT v13 March 16	Sponsor	Lead
12-601		Documented and implemented procedures are in place for the effective management of corporate records	2	2	C Harries	A Hetherington
12-603		Documented and publicly available procedures are in place to ensure compliance with the Freedom of Information Act 2000	3	3	C Harries	A Hetherington
12-604		As part of the information lifecycle management strategy, an audit of corporate records has been undertaken	2	2	C Harries	A Hetherington

Appendix B – Church View’s Requirements/Scores

Information Governance Management			
Req No	Description	IGT v12 March 15	IGT v13 March 16
12-114	Responsibility for Information Governance has been assigned to an appropriate member, or members, of staff.	3	3
12-115	There is an information governance policy that addresses the overall requirements of information governance	3	3
12-116	All contracts (staff, contractor and third party) contain clauses that clearly identify information governance responsibilities.	2	2
12-117	All staff members are provided with appropriate training on information governance requirements.	3	3

Confidentiality and Data Protection Assurance			
Req No	Description	IGT v12 March 15	IGT v13 March 16
12-211	All transfers of personal and sensitive information are conducted in a secure and confidential manner	2	2
12-212	Consent is appropriately sought before personal information is used in ways that do not directly contribute to the delivery of care services and objections to the disclosure of confidential personal information are appropriately respected.	3	3
12-213	There is a publicly available and easy to understand information leaflet that informs patients/service users how their information is used, who may have access to that information, and their own rights to see and obtain copies of their records.	3	3

Information Security Assurance

Req No	Description	IGT v12 March 15	IGT v13 March 16
12-304	Monitoring and enforcement processes are in place to ensure NHS national application Smartcard users comply with the terms and conditions of use	2	2
12-316	There is an information asset register that includes all key information, software, hardware and services	3	3
12-317	Unauthorised access to the premises, equipment, records and other assets is prevented	3	3
12-318	The use of mobile computing systems is controlled, monitored and audited to ensure their correct operation and to prevent unauthorised access.	2	2
12-319	There are documented plans and procedures to support business continuity in the event of power failures, system failures, natural disasters and other disruptions.	3	3
12-320	There are documented incident management and reporting procedures.	3	3

CITY HOSPITALS SUNDERLAND NHS FOUNDATION TRUST**COUNCIL OF GOVERNORS****GOVERNOR ELECTIONS****MARCH 2016****INTRODUCTION**

As an NHS Foundation Trust we are required to have a Council of Governors who are responsible for representing the interests of NHS Foundation Trust members and partner organisations in the local health economy in the governance of the NHS Foundation Trust. The Trust has identified within its constitution the following constituencies:

- Two “public constituencies”
 - Sunderland
 - Local Authority areas of the North East of England
- A ‘patients’ constituency
- A staff constituency

The Council of Governors is to include public governors, patients’ governors, staff governors and appointed governors.

- 7 from the electoral wards of the Sunderland public constituency
- 2 from the Local Authority areas of the North East of England constituency
- 2 from the patients’ constituency
- 5 staff governors as follows:
 - 1 from the medical and dental class
 - 2 from the clinical class
 - 2 from the ‘other’ class

CONTEXT

Elected Governors are subject to re-election by the members of their constituency at regular intervals not exceeding three years. The term of office for our existing elected Governors expires on 30 June 2016.

The Election Rules which are a statutory requirement and prescribed by Monitor are attached at Appendix A. The Rules include the specified forms of, and periods of declarations to be made by candidates standing for office and members as a condition of voting and the process if the election is uncontested.

TIMETABLE FOR ELECTION

The proceedings at an election are to be conducted in accordance with the following timetable:

Publication of Notice of Election (not later than the fortieth day before the day of the close of the poll)	25 April 2016
Final day for delivery of nomination papers to returning officer (not later than the twenty eighth day of the close of the poll)	12 May 2016
Close of the Poll (by 17.00pm on the final day of the election)	22 June 2016

TERMS OF OFFICE

Under the current regulations the following governors will not be eligible to stand for re-election having served the maximum length of appointment.

- Mandy Bates – Staff Constituency (Other)
- Mary Pollard – Staff Constituency (Other)

ORGANISATION OF ELECTION

Since being authorised as an NHS Foundation Trust in July 2004 the Trust has used the offices of the electoral team within the City of Sunderland Local Authority. The team have both a regional and national reputation for the provision of an electoral service. The team have confirmed their willingness to organise the elections on behalf of the Trust and certainly bring both integrity and independence to the process.

RECOMMENDATION

Governors are asked to approve:

- The election rules for elections to commence on 25 April 2016 and to conclude on 22 June 2016.
- That the election process is managed and organised by the offices of the electoral team of the City of Sunderland Local Authority.



CAROL HARRIES
Trust Secretary

**CITY HOSPITALS SUNDERLAND NHS
FOUNDATION TRUST**

**2016 ELECTION PROCESS FOR COUNCIL OF
GOVERNORS OF CITY HOSPITALS SUNDERLAND
NHS FOUNDATION TRUST**

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TIMETABLE OF EVENTS

Date of Election – 22 June 2016

April	25	Publication of Notice of Election
	26	
	27	
	28	
	29	
May	3	
	4	
	5	
	6	
	9	
	10	
	11	
	12	5pm – Final Day for Delivery of Nominations
	13	5pm – Publication of Statement of Nominated Candidates
	16	
	17	5pm – Final Day for Withdrawals
	18	
	19	
	20	
	23	
	24	
	25	
	26	
	27	
	31	
June	1	Notice of poll and ballot papers to Members
	2	
	3	

6

7

8 First day to replace ballot papers (lost / spoilt)

9

10

13

14

15 5pm – Deadline for names to attend count

16

17

20

21

22 noon – deadline for replacement ballot papers
(lost / spoilt)

5pm – Close of Poll

6pm – Counting of Votes

DEFINITIONS

In these rules unless otherwise indicated:

“the Trust”	means City Hospitals Sunderland NHS Foundation Trust
“RO”	means the Returning Officer
“the 2003 Act”	means the Health and Social Care(Community Health and Standards) Act 2003
“the Regulator”	Means the Independent Regulator for NHS Foundation Trusts

1. APPOINTMENT OF RETURNING OFFICER

- i) Every NHS Foundation Trust must appoint a Returning Officer for the election of governors for the Foundation Trust. To be appointable, the Returning Officer must not:
 - a) be a member of the Trust;
 - b) be an employee of the Trust;
 - c) be a director of the Trust;
 - d) be employed by or on behalf of a person who has been nominated for election.
- ii) For the Elections in 2016, the Trust intends to appoint the Returning Officer of Sunderland City Council who is Returning Officer for the Election of Councillors of the district.
- iii) Subject to (i) above, The Returning Officer may appoint a deputy and other staff to enable him to discharge any or all of the duties imposed upon him.
- iv) The Trust will make provisions to reimburse the Returning Officer in respect of his reasonable expenses in employing staff at each stage of the election under these rules.
- v) An Election will not be declared invalid by reason of any act or omission by the Returning Officer or any other person in breach of his official duties if it appears the election was conducted substantially in accordance with the rules.
- vi) If the election is required to be re-run, the Trust will be liable for all of the costs involved.

2. DUTIES OF THE TRUST

The Trust is to co-operate with the Returning Officer in the exercise of his functions under these rules.

3. TIMETABLE FOR ELECTION

i)

Proceeding	Time
Publication of notice of election	Not later than the fortieth day before the day of the close of the poll.
Final day for delivery of nomination papers to returning officer	Not later than the twenty eighth day before the day of the close of the poll.
Publication of statement of nominated candidates	Not later than the twenty seventh day before the day of the close of the poll.
Final day for delivery of notices of withdrawals by candidates from election	Not later than twenty fifth day before the day of the close of the poll.
Notice of the poll	Not later than the fifteenth day before the day of the close of the poll.
Close of the poll	By 5.00pm on the final day of the election.
Counting of votes	Commencing at 7.00pm on the final day of the election

ii) (1) Computation of time – In computing any period of time for the purposes of the timetable:

- a) a Saturday or Sunday;
- b) Christmas day, Good Friday, or a bank holiday, or
- c) a day appointed for public thanksgiving or mourning,

shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll, nor shall the Returning Officer be obliged to proceed with the counting of votes on such a day.

(2) In this rule, “bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.

4. NOTICE OF ELECTION

- i) The Returning Officer is to publish a notice of election stating:
 - a) the constituency or class within a constituency for which the election is being held;
 - b) the number of members of the Council of Governors to be elected from that constituency or class within that constituency;
 - c) where nomination papers can be obtained from and at the place and times;
 - d) the date of the election and that (if contested) the election will be by post only;
 - e) the date and time ballot papers must be returned in a contested election;
 - f) where completed nomination and ballot papers must be returned to and at the place and times; (including the email address)
 - g) the contact details of the Returning Officer.
- ii) The Notice of Election will be publicly displayed in the office of the Trust and in the Returning Officer's Elections Office.
- iii) A copy of the relevant notice of election will be sent to each qualified member included at that time in the register supplied to the Returning Officer.

5. NOMINATION OF CANDIDATES

- i) Each candidate must be nominated on a separate nomination paper in the form in the Appendix or like effect.
- ii) The Returning Officer is to supply any member with as many nomination papers as may be required (in the form set out in the appendix) at the time and place for nominations.
- iii) A nomination paper for signature must be prepared at the request of any member.

But it is not necessary for a nomination to be on a form supplied by the Returning Officer.

- iv) Nominations must be delivered in person to Electoral Services, Room 3.17, Civic Centre, Sunderland, or by email to elections@sunderland.gov.uk
- v) The nomination paper shall state the:
 - a) constituency (and class where appropriate) the candidate is a member of;
 - b) candidates full names;
 - c) candidates contact address in full

6. DECLARATIONS

6a. Declaration of Interests

- i) The nomination paper must state:
 - a) any financial interest that the candidate has in the Trust; and
 - b) whether the candidate is a member of a political party; and if so, which party: and
 - c) if the candidate has no such interests, the paper must include a statement to that effect.

6b. Declaration of Eligibility

- i) The nomination paper must include a declaration made by the candidate
 - a) of the particulars of his or her qualification to vote and stand as a member of the constituency or class within a constituency for which the election is being held; and
 - b) that he or she is not prevented from being a member of the Council of Governors by section 8.13.1 of the constitution of the NHS Foundation Trust.

6c. Signature of Candidate

- i) The nomination paper must be signed and dated by the candidate, indicating that:
 - a) the candidate consents to being nominated in the paper;

- b) the statement of the interests of the candidate in the paper, as required by rule 6a is true and correct; and
 - c) the declaration of eligibility required by rule 6b is true and correct.
- ii) Where the return of nomination forms is permitted, the returning officer shall specify the particular signature formalities (if any) that will need to be complied with by the candidate.

7. DECISIONS AS TO VALIDITY OF NOMINATION PAPER

- i) Where the candidate's nomination paper is delivered to the Returning Officer in accordance with these rules, the candidate shall be deemed to stand for election as nominated, unless and until:
 - a) the Returning Officer decides the nomination paper is invalid;
 - b) proof is given to the Returning Officer that the candidate has died;or
 - c) the candidate withdraws.
- ii) The Returning Officer can hold a nomination paper invalid only on one of the following grounds:
 - a) that the paper is not received on or before the final date for return of nomination papers, as specified in the Notice of Election;
 - b) that the paper does not contain the candidates particulars as required by rule 5;
 - c) that the paper does not contain a declaration of the interests of the candidate, as required by rule 6a;
 - d) that the paper does not include a declaration of eligibility as required by rule 6b;
 - e) that the paper is not signed and dated by the candidate as required by rule 6; or
 - f) the paper is illegible.
- iii) The Returning Officer is to examine each nomination paper as soon as is practicable after he or she has received it, and decide whether the candidate has been validly nominated.

- iv) Where the Returning Officer decides that a nomination paper is invalid he or she must endorse this on the paper, stating the reason for the decision.
- v) The Returning Officer is to send notice of the decision as to whether a nomination paper is valid or invalid to the candidate, at the contact address given in the candidate's nomination paper. If an email address has been given in the candidate's nomination form (in addition to the candidate's postal address), the Returning Officer may send notice of decision to that address.

8. PUBLICATION OF STATEMENT OF NOMINATED CANDIDATES

- i) The Returning Officer will prepare and publish a statement showing the candidates who are standing for election as nominated
- ii) The statement must show
 - a) the name, contact address (which will be the candidate's postal address) and constituency or class within a constituency of each candidate standing as nominated; and
 - b) the statement of interests of each candidate standing as nominated, as given in their nomination paper.
- iii) The statement must list the candidates standing for election in surname alphabetical order, or if two or more have the same name, alphabetical by their other names.
- iv) If a candidate has been nominated by more than one nomination paper the Returning Officer is to take the particulars required by this rule from one of the papers selected by the candidate, or by the Returning Officer in default of the candidate.
- v) A copy of the statement of nominated candidates for each constituency or class within a constituency shall be:
 - a) displayed at the Elections Office of the Returning Officer;
 - b) displayed at the Trust Headquarters;
 - c) Sent to every candidate to the contact address or email given on their nomination paper.

- vi) The Returning Officer must send a copy of the statement of nominated candidates and copies of nomination papers to Sunderland NHS Foundation Trust Secretary as soon as is practicable after publishing this statement.

9. INSPECTION OF STATEMENT OF NOMINATED CANDIDATES AND NOMINATION PAPERS

- i) During the hours of 9.00 a.m. to 5.00 p.m. any member of the public may inspect and take extracts from or take copies of the statement of nominated candidates and nomination papers held by the Trust Secretary.
- ii) There will be no charge for this.

10. WITHDRAWAL OF CANDIDATES

Any candidate may withdraw their candidature by delivering a notice to the Returning Officer at the place for the delivery of nomination papers, signed by the candidate and attested by one witness.

11. NOMINATION IN MORE THAN ONE CONSTITUENCY OR CLASS

- i) If a candidate is nominated in more than one constituency or class, they must withdraw from all those constituencies or classes except one.
- ii) If a candidate fails to do this then the Returning Officer shall withdraw their candidature from all constituencies or classes.

12. METHOD OF ELECTION

- i) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is greater than the number of members to be elected to the Council of Governors, a poll is to be taken in accordance with these rules.
- ii) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is equal to the number of members to be elected to the Council of Governors, those candidates are to be declared elected in accordance with these rules.

- iii) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is less than the number of members to be elected to be Council of Governors, then
 - a) the candidates who remain validly nominated are to be declared elected in accordance with these rules; and
 - b) the Returning Officer is to order a new election or take all necessary action to co-opt to fill any vacancy as detailed in rule number 32, which remains unfilled on a day appointed by him or her in consultation with the Trust.

13. POLL TO BE TAKEN BY BALLOT

- i) The votes at the poll must be given by secret ballot.
- ii) The votes are to be counted and the result of the poll determined in accordance with these rules.

14. BALLOT PAPER

- i) The ballot of each voter is to consist of a ballot paper with the persons remaining validly nominated for an election after any withdrawals under these rules, and no others, inserted in the paper.
- ii) Every ballot paper must specify -
 - (a) the name of the Trust;
 - (b) the constituency, or class within a constituency, for which the election is being held;
 - (c) the number of members of the Council of Governors to be elected from that constituency, or class within that constituency;
 - (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates;
 - (e) instructions on how to vote
 - (f) that the ballot paper is to be returned by post, with the address for its return and the date of the close of the poll, and
 - (g) the contact details of the Returning Officer.
- iii) Each ballot paper must have a unique identifier.

- iv) Each ballot paper must have features incorporated into it to prevent it from being reproduced.

15. POSTAL VOTING STATEMENT

- i) A Postal voting statement must be issued with each ballot paper.
- ii) The Postal voting statement is to include a declaration -
 - (a) that the voter is the person to whom the ballot paper was addressed,
 - (b) that the voter has not marked or returned any other voting paper in the election, and
 - (c) of the particulars of that member's qualification to vote as a member of the constituency or class within a constituency for which the election is being held.
- iii) The Postal voting statement is to include space for -
 - (a) the name of the voter,
 - (b) the address of the voter,
 - (c) the voter's signature, and
 - (d) the date that the declaration was made by the voter.
- iv) The Postal voting statement must caution the voter that, if it is not returned with the ballot paper, or if it is returned without being correctly completed, the voter's ballot paper may be invalid.

16. Eligibility to Vote

- i) The Trust is to provide the Returning Officer with a list of the members and mailing address where ballot paper is to be sent of the constituency or class within a constituency for which the election is being held who do not come within 16(ii) below (the list of eligible voters) as soon as is reasonably practicable after the final date for delivery of notices of withdrawals by candidates from an election.
- ii) An individual who becomes a member of the Trust
 - (a) on the final date for the delivery of notices of withdrawals by candidates from an election; or
 - (b) on any subsequent day of the election

is not eligible to vote in that election.

17. MISTAKES ON THE REGISTER

Nothing prevents the Returning Officer from amending the list or adding a name or deleting a name on the register to be used at the election, because of an administrative error.

18. NOTICE OF POLL

The Returning Officer is to publish a Notice of Poll stating:

- (a) the name of the Trust;
- (b) the constituency or class within a constituency, for which the election is being held;
- (c) the number of members of the Council of Governors to be elected from that constituency or class within that constituency;
- (d) the names, contact addresses and other particulars of the candidates standing for election, with the details and order being the same as in the Statement of Nominated Candidates;
- (e) that the ballot papers for the election are to be issued and returned by post;
- (f) the address for return of the ballot papers and the date and time of the close of poll;
- (g) the address and final dates for applications for replacement ballot papers; and
- (h) the contact details of the Returning Officer.

19. DISTRIBUTION OF BALLOT PAPERS

- i) As soon as is reasonably practicable on or after the publication of notice of poll, all registered members named in the list of eligible voters will receive from the Returning Officer:
 - a) a ballot paper;
 - b) ballot paper envelope;
 - c) a Postal voting statement;
 - d) a covering envelope

- e) Candidate's personal election statement of not more than 250 words

19a. BALLOT PAPER ENVELOPE AND COVERING ENVELOPE

- i) The ballot paper envelope must have clear instructions to the voter printed on it, instructing the voter to seal the ballot paper inside the envelope once the ballot paper has been marked.
- ii) The covering envelope is to have -
 - (a) the address for return of the ballot paper printed on it, and
 - (b) pre-paid postage for return to that address.
- iii) There should be clear instructions, either printed on the covering envelope or elsewhere, instructing the voter to seal the following documents inside the covering envelope and return it to the Returning Officer -
 - (a) the completed Postal voting statement, and
 - (b) the ballot paper envelope, with the ballot paper sealed inside it.

20. RETURN OF BALLOT PAPERS

- i) The Returning Officer will make available sealed ballot boxes for the hand delivery of ballot papers at:
 - (a) the Returning Officer, Electoral Services, Room 3.17, Civic Centre, Sunderland;
 - (b) the Trust Headquarters, Sunderland Royal Hospital, Kayll Road, Sunderland.
- ii) Ballot papers must be returned to reach the Returning Officer by post or to one of the drop off points identified at b) and c) above, by the close of poll to be included in the count.
- iii) Ballot papers received after this time will not be included in the count.
- iv) Returned ballot papers will be held in a secure location by the Returning Officer until either:
 - a) verification; or
 - b) counting of votes.

21. REPLACEMENT BALLOT PAPERS

21a. Spoilt Ballot Papers

- i) If a voter has dealt with his or her ballot paper in such a manner that it cannot be accepted as a ballot paper (referred to as a “spoilt ballot paper”), that voter may apply to the Returning Officer for a replacement ballot paper.
- ii) On receiving an application, the Returning Officer is to obtain the details of the unique identifier on the spoilt ballot paper, if he or she can obtain it.
- iii) The Returning Officer may not issue a replacement ballot paper for a spoilt ballot paper unless he or she –
 - (a) is satisfied as to the voter’s identity, and
 - (b) has ensured that the postal voting statement, if required attached to the original ballot paper has not been returned
- iv) After issuing a replacement ballot paper for a spoilt ballot paper, the Returning Officer shall enter in a list (“the list of spoilt ballot papers”) -
 - (a) the name of the voter, and
 - (b) the details of the unique identifier of the spoilt ballot paper (if that officer was able to obtain it), and
 - (c) the details of the unique identifier of the replacement ballot paper.
- v) Applications for replacements for spoilt ballot papers must be received by noon on the day of the poll.

21b. Lost/Non Received Ballot Papers

- i) Where a voter has not received his or her ballot paper by the tenth day before the close of poll, that voter may apply to the Returning Officer for a replacement ballot paper.
- ii) The Returning Officer may not issue a replacement ballot paper for a lost ballot paper unless he:
 - a) is satisfied as to the voters identity;
 - b) has no reason to doubt that the voter did not receive the original ballot paper; and

- c) has ensured the original postal voting statement, if required attached to the original ballot paper has not been returned.
- iii) The Returning Officer shall make a list of all ballot papers replaced which will include:
 - a) the name of the voter; and
 - b) the details of the unique identifier of the replacement ballot paper.
- iv) A replacement Postal voting statement set out in accordance with these rules, must be issued with each replacement ballot paper.
- v) Applications for replacements for lost/non received ballot papers must be received by noon on the day of the poll

21c. Double Voting and Personation

If a person applies for a replacement ballot paper and a Postal voting statement, if required has already been received by the Returning Officer in the name of that voter, the Returning Officer may not issue a replacement ballot paper unless, in addition to the requirements imposed in 21a and 21b, the Returning Officer is also satisfied that the person has not already voted in the election notwithstanding the fact that a Postal voting statement if required has already been received by the Returning Officer in the name of that voter..

22. Postal voting statement for replacement ballot papers (public and patient constituencies)

- 22.1 In respect of an election for a public or patient constituency a postal voting statement must be issued with each replacement ballot paper requiring the voter to make a declaration of identity.

23. Validity of Ballot Paper

- i) A ballot paper shall not be taken to be duly returned unless the Returning Officer is satisfied that it has been returned before the close of the poll, with a Postal voting statement that has been correctly completed, signed and dated.
- ii) Where the Returning Officer is satisfied that paragraph (i) has been fulfilled, he or she is to -

- (a) put the Postal voting statement in a separate packet, and
 - (b) put the ballot paper aside for counting after the close of the poll.
- iii) Where the Returning Officer is not satisfied that paragraph (i) has been fulfilled, he or she is to -
 - (a) mark the ballot paper “disqualified”,
 - (b) if there is a Postal voting statement accompanying the ballot paper, mark it as “disqualified” and attach it to the ballot paper,
 - (c) record the unique identifier on the ballot paper in a list (the “list of disqualified documents”); and
 - (d) place the document or documents in a separate packet.

24. VOTERS WHO REQUIRE ASSISTANCE

If a voter considers they have difficulty with voting, they may ask the Returning Officer for assistance who will make such arrangements as necessary to enable that voter to vote.

25. VERIFICATION

- i) The Returning Officer may verify returned ballot papers in advance of the close of poll.
- ii)
 - a) During verification procedures the Returning Officer will open the covering envelope or any other envelope containing a postal voting statement, a ballot paper envelope or ballot paper and examine the postal voting statement and where the covering envelope does not contain the postal voting statement separately, the Returning Officer shall open the ballot paper envelope to ascertain whether the postal voting statement is inside.
 - b) If a postal voting statement is not signed as required the Returning Officer may (where time permits) return the statement to the member for signature.
 - c) Where postal voting statements are returned to the member for completion the Returning Officer will retain the ballot paper in a secure location, which will be marked provisionally rejected until such time as

the postal voting statement is received by the Returning Officer in accordance with these rules

- d) Any ballot paper or postal voting statement received separately by the Returning Officer can be compared with any ballot paper or postal voting statement held by the Returning Officer as provisionally rejected, matched and included in the count.
- iii) Verified ballot papers will be held in a secure location until the counting of votes.
- iv) Where the Returning Officer receives a Postal voting statement but no ballot paper, the Returning Officer is to mark the Postal voting statement “disqualified” and record the name of the voter in a list.

25a. POSTAL VOTING STATEMENTS BUT NO BALLOT PAPER

Where the Returning Officer receives a Postal voting statement but no ballot paper, the Returning Officer is to -

- (a) mark the Postal voting statement “disqualified”,
- (b) record the name of the voter in the list of disqualified documents, indicating that a Postal voting statement was received from the voter without a ballot paper; and
- (c) place the Postal voting statement in a separate packet.

26. DECLARATION OF SECRECY

- i) The following persons -
 - (A) the Returning Officer,
 - (B) the Returning Officer’s staff,must maintain and aid in maintaining the secrecy of the voting and the counting of the votes, and must not, except for some purpose authorised by law, communicate to any person any information as to –
 - (a) the name of any member of the Trust who has or has not been given a ballot paper or voted,
 - (b) the unique identifier on any ballot paper,

- (c) the candidate for whom any person has voted on any particular ballot paper.
- ii) No person may obtain or attempt to obtain information as to the candidate for whom a voter is about to vote or has voted, or communicate such information to any person at any time, including the unique identifier on a ballot paper given to a voter.
- iii) The Returning Officer is to make such arrangements as he or she thinks fit to ensure that the individuals that are affected by this provision are aware of the duties it imposes.

27. ATTENDING COUNTING OF VOTES

- i) The Returning Officer will make arrangements to count the votes as soon as practicable after the close of poll.
- ii) Candidates will be given 48 hours notice in writing of:
 - (a) places and time of count;
 - (b) count procedures;
 - (c) who can attend:
 - i) candidate;
 - ii) substitute acting on behalf of the candidate;
 - iii) companion;
 - iv) representatives of the Trust;
 - v) Returning Officer's staff.
- iii) The Returning Officer will give those present all reasonable facilities to oversee the count procedures and to ensure that the ballot papers are correctly sorted.

28. THE COUNT

- i) The Returning Officer shall in the presence of the candidates, count the number of ballot papers that have been returned.
- ii) The Returning Officer shall not count any papers handed in or received after the close of poll.
- iii) The Returning Officer shall count the number of votes marked for each candidate.
- iv) The Returning Officer shall reject and not count any ballot paper that:

- (a) has more votes marked on it than there are vacancies to be filled;
 - (b) is unmarked or void for uncertainty;
 - (c) has writing or marking on the ballot paper, so that the identity of the member can be identified;
 - (d) does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced.
- v) A ballot paper will not be rejected if it is clear to the Returning Officer that the intention of the voter is clear.
- vi) Where a voter is entitled to vote for more than one candidate and the ballot paper contains uncertain and good votes, the Returning Officer will count as many of the votes where the Returning Officer is clear as to the intention of the voter.

29. DECISION ON BALLOT PAPERS

The Returning Officer will consult with candidates (or substitutes) present about doubtful ballot papers. However, the decision to include a vote or reject it from the count will be made by the Returning Officer and his decision shall be final.

30. RECOUNT

- i) All candidates (or substitutes) present at the count will be shown a copy of the total number of votes given to each candidate before it is declared.
- ii) Any candidate may ask the Returning Officer to recount the votes.
- iii) The Returning Officer may refuse to recount the votes if, in his view, it is unreasonable to do so.

31. EQUALITY OF VOTES

If after any count or recount there is an equality of votes between candidates for the last member to be elected, the Returning Officer shall decide between the candidates by lot and proceed as if the candidate on who the lot falls, had received an additional vote.

32. DECLARATION OF RESULT FOR A CONTESTED ELECTION

- i) In a contested election, when the result of the poll has been ascertained, the Returning Officer is to -
 - (a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the Council of Governors from the constituency, or class within a constituency, for which the election is being held to be elected,
 - (b) give notice of the name of each candidate who he or she has declared elected -
 - (i) where the election is held under a proposed constitution pursuant to powers conferred on the City Hospitals Sunderland NHS Foundation Trust by section 33 (4) of the 2006 Act, to the chairman of the NHS Foundation Trust, or
 - (ii) in any other case, to the Secretary of the Trust:
and
 - (c) give public notice of the name of each candidate whom he or she has declared elected.
- (ii) The Returning Officer is to make known -
 - (a) the total number of votes given for each candidate (whether elected or not), and
 - (b) the number of rejected ballot papers under each of the headings in rule 26 (iv)

33. DECLARATION OF RESULT FOR AN UNCONTESTED ELECTION

- i) As soon as practicable after the close of withdrawals of candidates from the election the Returning Officer shall:
 - (a) declare the candidate or candidates remaining validly nominated to be elected;
 - (b) give notice to each candidate that they have been duly elected;
 - (c) give written notice to the Trust Secretary of the names and addresses of the candidates elected;

- (d) give written notice to the Trust Secretary if there are still vacancies in that Constituency or class;

34. FILLING CASUAL VACANCIES/FAILURE TO ACCEPT OFFICE

- i) In the case of:
 - (a) vacancies arising due to an elected governor failing to take up office;
 - (b) vacancies arising during the term of office;
such vacancies will be filled:
 - (c) by a by-election for the particular constituency (and class where appropriate) of the elected governor and for a period of office to be determined in advance of the election by the Trust's Council of Governors;
unless:
 - (d) there are sufficient elected governors to continue to maintain the minimum legal requirement of a public/patient governor majority, in which case the post will be held open until the next planned election.

35. DISPOSAL OF DOCUMENTS

- i) On completion of the verification and counting of votes the Returning Officer will seal into separate packets all paperwork, envelopes, lists and ballot papers connected with the election including:
 - (a) the disqualified documents, together with the list of disqualified documents inside it,
 - (b) the Postal voting statements,
 - (c) the list of spoiled ballot papers,
 - (d) the list of lost ballot papers,
 - (e) the list of eligible voters, and
 - (f) the list of tendered ballot papers.
- ii) After a period of 12 months following the counting of votes, and unless directed otherwise by the Regulator, the Trust will destroy all packets retained by them.

- iii) Where:
 - (a) any voting documents are received by the Returning Officer after the close of the poll; or
 - (b) any envelopes are addressed to eligible voters are returned as undelivered too late to be resent; or
 - (c) any applications for replacement ballot papers are made too late to enable new ballot papers to be issued;the Returning Officer is to put them in a separate packet, seal it up, and endorse and forward to the Secretary of the Trust, who will retain them for one year and will be available for public inspection for which a charge can be made.

36. APPLICATION FOR INSPECTION OF DOCUMENTS RELATING TO THE ELECTION

- i) The Trust may not allow inspection of, or opening of any sealed packet containing:
 - a) any rejected ballot papers, including ballot papers rejected in part;
 - b) any disqualified documents , or the list of disqualified documents;
 - c) any counted ballot papers;
 - d) any declarations of identity; or
 - e) the list of eligible voters;by any person without the consent of the Regulator.
- ii) A person may apply to the Regulator to inspect any of the documents listed in (i) and the Regulator may only consent to such inspection if it is satisfied that it is necessary for the purpose of questioning an election pursuant to rule 39.
- iii) The Regulator's consent may be on any terms or conditions that it thinks necessary, including conditions as to –
 - (a) persons,
 - (b) time,
 - (c) place and mode of inspection,
 - (d) production or opening,

and the Trust must only make the documents available for inspection in accordance with those terms and conditions.

- iv) On an application to inspect any of the documents listed in paragraph (i), –
 - (a) in giving its consent, the Regulator, in agreeing that
 - the documents be made available for inspection, the Trust, must ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established –
 - (b) that his or her vote was given, and if applicable
 - (c) that the Regulator has declared that the vote was invalid.

37 DEATH OF A CANDIDATE AND COUNTERMAND OR ABANDONMENT OF POLL

- (i) If, at a contested election, proof is given to the Returning Officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the Returning Officer is to:
 - (a) countermand notice of the poll, or, if ballot papers have been issued, direct that the poll be abandoned within that constituency or class, and
 - (b) order a new election, on a date to be appointed by him or her in consultation with the corporation, within the period of 40 days, beginning with the day that the poll was countermanded or abandoned.
- (ii) Where a new election is ordered under paragraph (i), no fresh nomination is necessary for any candidate who was validly nominated for the election where the poll was countermanded or abandoned.
- (iii) Where a poll is abandoned under paragraph (i)(a), paragraphs (iv) to (vii) are to apply.
- (iv) The Returning Officer shall not take any step or further step to open envelopes or deal with their contents in accordance with rule 23 and

23a, and is to make up separate sealed packets in accordance with rule 33.

- (v) The Returning Officer is to:
 - (a) count and record the number of ballot papers that have been received, and
 - (b) seal up the ballot papers into packets, along with the records of the number of ballot papers.
- (vi) The Returning Officer is to endorse on each packet a description of –
 - (a) its contents,
 - (b) the date of the publication of notice of the election,
 - (c) the name of the trust to which the election relates, and
 - (d) the constituency, or class within a constituency, to which the election relates.
- (vii) Once the documents relating to the poll have been sealed up and endorsed pursuant to paragraphs (iv) to (vi), the Returning Officer is to deliver them to the secretary of the Trust, and rules 32 and 33 are to apply.

38. ELECTION EXPENSES

Any expenses incurred, or payments made, for the purposes of an election which contravene these rules are an electoral irregularity, which may only be questioned in an application to the regulator under section 39 of these rules.

38a. Election expenses incurred by candidates

A candidate may not incur any expenses or make a payment (of whatever nature) for the purposes of an election, other than expenses or payments that relate to –

- (a) personal expenses,
- (b) travelling expenses, and expenses incurred while living away from home, and

- (c) expenses for stationery, postage, telephone, internet (or any similar means of communication) and other petty expenses, to a limit of (£100).

38b. Election expenses incurred by other persons

- (i) No person may:
 - (a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise, or
 - (b) give a candidate or his or her family any money or property (whether as a gift, donation, loan, or otherwise) to meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.
- (ii) Nothing in this rule is to prevent the Trust from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 37 and 38.

38c. MEANING OF "FOR THE PURPOSES OF AN ELECTION"

- (i) In this Part, the phrase "for the purposes of an election" means with a view to, or otherwise in connection with, promoting or procuring a candidate's election, including the prejudicing of another candidate's electoral prospects; and the phrase "for the purposes of a candidate's election" is to be construed accordingly.
- (ii) The provision by any individual of his or her own services voluntarily, on his or her own time, and free of charge is not to be considered an expense for the purposes of this Part.

39. PUBLICITY ABOUT ELECTION BY THE TRUST AND THE RETURNING OFFICER

- (i) The Trust may –
 - (a) compile and distribute such information about the candidates, and
 - (b) organise and hold such meetings to enable the candidates to

speak and respond to questions, as it considers necessary.

- (ii) Any information provided by the Trust about the candidates, must be:
 - (a) objective, balanced and fair,
 - (b) equivalent in size and content for all candidates,
 - (c) compiled and distributed in consultation with all of the candidates standing for election, and
 - (d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.
- (iii) Where the Trust proposes to hold a meeting to enable the candidates to speak, the Trust must ensure that all of the candidates are invited to attend, and in organising and holding such a meeting, the Trust must not seek to promote or procure the election of a specific candidate or candidates at the expense of the electoral prospects of one or more other candidates.
- (iv) The Trust and the Returning Officer may distribute information to candidates and members in any format they consider appropriate.

40. INFORMATION ABOUT CANDIDATES FOR INCLUSION WITH VOTING DOCUMENTS

- (i) The Trust must compile information about the candidates standing for election, to be distributed by the returning officer pursuant to rule 18 of these rules.
- (ii) The information must consist of a statement submitted by the candidate of no more than 200 words.

41. APPLICATION TO QUESTION AN ELECTION

- (i) An application alleging a breach of these rules, including an electoral irregularity under election expenses and publicity, may be made to the Regulator.
- (ii) An application may only be made once the outcome of the election has been declared by the Returning Officer.
- (iii) An application may only be made to the Regulator by:

- (a) a person who voted at the election or who claimed to have had the right to vote, or
 - (b) a candidate, or a person claiming to have had a right to be elected at the election.
- (iv) The application must –
- (a) describe the alleged breach of the rules or electoral irregularity, and
 - (b) be in such a form as the Regulator may require.
- (v) The application must be presented in writing within 21 days of the declaration of the result of the election.
- (vi) If the Regulator requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.

42. PROHIBITION OF DISCLOSURE OF VOTE

No person who has voted at an election shall, in any legal or other proceeding to question the election, be required to state who he or she has voted for.

43. DISQUALIFICATION

A person may not be appointed as a Returning Officer, or as staff of the returning officer pursuant to these rules, if that person is –

- (a) a member of the Trust,
- (b) an employee of the Trust,
- (c) a director of the Trust, or
- (d) employed by or on behalf of a person who has been nominated for election.

44. DELAY IN POSTAL SERVICE THROUGH INDUSTRIAL ACTION OR UNFORESEEN EVENT

If industrial action, or some other unforeseen event, results in a delay in:

- (a) the delivery of the documents in rule 19, or

(b) the return of the ballot papers and Postal voting statements, the Returning Officer may extend the time between the publication of the notice of poll and the close of the poll, with the agreement of the Regulator.

LIST OF FORMS AND NOTICES

1. Notice of Election
2. Nomination Paper
3. Validity of Nomination
4. Statement of Nominated Candidates
5. Withdrawal of Candidates
6. Notice of Poll
7. Ballot Paper
8. Candidates Personal Statements
9. Postal voting Statement and Instructions How to Vote
10. Envelopes
11. Attendance at Verification
12. Attendance at Count
13. Declaration of Secrecy
14. Declaration of Result
15. Notification of Result to The Trust
16. Uncontested Election
17. Appointment of Deputy Returning Officer