



**Leeds and York Partnership**  
NHS Foundation Trust

**Reservation of Powers to the Board of Directors and Council  
of Governors**

**and**

**Schedule of Decisions/Duties Delegated by the Board of  
Directors**

**Responsible:** Chief Executive  
**Prepared by:** Associate Director for Corporate Governance  
**Ratified by:** Board of Directors  
**Date:** November 2018

## **CONTENTS**

1. Introduction
2. Portfolios of Executive Directors
3. Matters reserved to the Board of Directors
4. Matters reserved to the Council of Governors
5. Schedule of decisions/duties delegated in respect of the Council of Governors as set out in Annex 7 of the Constitution (Standing Order of the Council of Governors)
6. Schedule of decisions/duties delegated in respect of the Board of Directors as set out in Annex 8 of the Constitution (Standing Orders of the Board of Directors)
7. Schedule of decisions/duties delegated as set out in the Accounting Officer's Memorandum
8. Schedule of decisions/duties delegated by the Board of Directors implied by Standing Financial Instructions
9. Schedule of decisions/duties delegated by the powers of the Mental Health Act 1983 or any of its subsequent amendments
10. Responsibilities delegated to the sub-committees of the Board of Directors

## **SECTION 1 – INTRODUCTION**

The ‘NHS Foundation Trust Code of Governance’ (January 2014) requires there to be a formal document setting out the Reservation of Powers to the Board of Directors and a Schedule of Decisions/Duties Delegated by the Board of Directors.

The purpose of this document is to define those powers specifically reserved to the Board of Directors, , while at the same time detailing those delegated to the appropriate level. However, the Board of Directors remains accountable for all of its functions, including those delegated to the Chair of the Trust, individual directors or officers in the Trust, and will establish ways in which it will receive information about the exercise of those delegated functions to enable it to maintain a monitoring role.

All matters which are not reserved for the Board of Directors or delegated to its committees shall be exercised by the Chief Executive. In turn, the Chief Executive will delegate as he/she sees fit to members of the Executive Management Team. All powers delegated by the Chief Executive can be reassumed by him/her should the need arise.

It should be noted (in accordance with the provisions of the emergency Powers Section of Annex 8 paragraph 4.2 of the Constitution that in an emergency the powers that the Board of Directors has retained to itself may be exercised by the Chief Executive and the Chair of the Trust after having consulted at least two non-executive directors. The exercise of such powers by the Chief Executive and the Chair of the Trust shall be reported to the next formal meeting of the Board of Directors for approval.

For clarity and completeness this document also includes a schedule of Reservation of Powers to the Council of Governors which is set out in Section 4; and these include those matters for which it has responsibility set out in the NHS Act 2006 (as amended by the Health and Social Care Act 2012).

### **ABBREVIATIONS USED IN SECTIONS OF THIS DOCUMENT:**

- BoD = Board of Directors
- Code of G = Code of Governance
- CoG = Council of Governors
- Const = Constitution
- FP = Financial Procedures
- MHA = Mental Health Act
- SFIs = Standing Financial Instructions
- SO = Standing Orders

## SECTION 2 – PORTFOLIOS OF EXECUTIVE DIRECTORS

All the powers of the Trust that have not been retained by the Trust Board or delegated to a committee will be exercised on behalf of the Board by the Chief Executive. They will in turn delegate some of these duties to the executive directors. Below is a high-level list of the duties that fall into each of the portfolios of the executive directors (greater detail of individual responsibilities is set out in directors' job descriptions).

Directorate functions	
Chief Financial Officer	<ul style="list-style-type: none"> <li>• Financial leadership, standards and governance with expert professional advice to the Board of Directors and the Council of Governors</li> <li>• Financial performance delivery</li> <li>• Contracting</li> <li>• Estates and facilities including security management</li> <li>• Commercial activities including the North of England Commercial Procurement Collaborative (NoE CPC).</li> <li>• Supplies and procurement</li> <li>• Internal audit and counter fraud</li> <li>• Health and safety</li> <li>• Informatics and Information Management and Technology</li> <li>• Capital development</li> <li>• Management of Programme Management Office for delivery of Trust strategic programmes</li> </ul>
Director of Nursing, Quality and Professions	<ul style="list-style-type: none"> <li>• Nursing and AHP leadership, standards and governance with expert professional advice to the Board of Directors and Council of Governors</li> <li>• Quality review and assurance</li> <li>• Risk management including oversight of risk registers and Datix reporting</li> <li>• Serious incident reporting and learning from incidents</li> <li>• Safeguarding children and adults</li> <li>• Infection prevention and control</li> <li>• Physical health</li> <li>• Smoking cessation</li> <li>• Mental Health Act management</li> <li>• Complaints/PALs and claims</li> <li>• CQC compliance</li> <li>• Service user experience</li> <li>• Chaplaincy</li> </ul>

Reservation of Powers to the Board of Directors and Council of Governors and Schedule of Decisions/Duties Delegated by the Board of Directors

Directorate functions	
Medical Director	<ul style="list-style-type: none"> <li>• Medical leadership, standards and governance, including revalidation with expert professional advice to the Board of Directors and Council of Governors</li> <li>• Clinical audit</li> <li>• Research and development</li> <li>• Medicines management</li> <li>• Caldicott guardian</li> <li>• Mortality review</li> <li>• Quality review</li> <li>• Compliance with NICE / national clinical standards</li> <li>• Andrew Sims Centre and events management</li> <li>• Quality Improvement</li> </ul>
Chief Operating Officer	<ul style="list-style-type: none"> <li>• Management and leadership across Care Services</li> <li>• Emergency Preparedness, Response and Resilience</li> <li>• Clinical Services Strategic Plan and delivery of service developments</li> <li>• CQUIN delivery</li> <li>• Performance management and delivery of performance standards</li> <li>• Partnership development</li> <li>• Service Integration</li> <li>• Quality delivery</li> </ul>
Director of Organisational Development and Workforce	<ul style="list-style-type: none"> <li>• Organisational development and HR function, leadership standards and governance with expert professional advice to the Board of Directors and Council of Governors</li> <li>• Workforce planning and workforce information/systems</li> <li>• Staff learning and training</li> <li>• Internal Temporary clinical and non-clinical staffing bank</li> <li>• Diversity and inclusion including equality and diversity, voluntary services</li> <li>• Communications (internal and external)</li> <li>• Staff Engagement</li> <li>• Occupational health services and staff health and wellbeing</li> </ul>

### SECTION 3 - RESERVATION OF POWERS TO THE BOARD OF DIRECTORS

The Board of Directors must determine those matters on which decision are reserved unto itself. These reserved matters are set out below:

<b>MATTERS RESERVED TO THE BOARD OF DIRECTORS</b>	
<b>General Enabling Provision</b>	
The Board of Directors shall exercise all powers of the Trust as set out in the NHS Act 2006 (as amended by the Health and Social Care Act 2012), subject to any restrictions by its license, or as delegated in accordance with this Scheme. The Board at a full session may determine any matter it wishes in within its statutory powers.	
<b>1. Regulations and Control</b>	
1.1	Approve the Reservation of Powers to the Board of Directors and Council of Governors, Schedule of Decisions/Duties Delegated by the Board of Directors (BoD SO 4.5).
1.2	Approve the Standing Financial Instructions which set out the responsibilities of individuals (BoD SO 2.5)
1.3	Approve the Standing Orders for the Board of Directors as set out in the Constitution (BoD SO 15.1).
1.4	Suspend Standing Orders pertaining to the Board of Directors BoD SO 3.10).
1.5	Approve variations or amendments to the Constitution (including the Standing Orders) in conjunction with the Council of Governors (Const 44.1.2).

<b>MATTERS RESERVED TO THE BOARD OF DIRECTORS</b>	
1.6	At the next formal meeting of the Board of Directors ratify any urgent decisions taken by the Chair of the Trust and Chief Executive (BoD SO 4.2)
1.7	At any point during discussions at a Board of Directors' meeting require and receive the declaration of interests of any member of the Board of Directors that may conflict with those of the Trust; and determining the extent to which that Board member may remain involved with the matter under consideration (BoD SO 6.6).
1.8	Approval of the format for the Declaration of Interests' form (BoD SO 7.2).
1.9	Determine the independence of the non-executive directors. (Code of G. A.3.1)
1.10	Regularly review and at all times maintain and ensure the capacity and capability of the Trust to provide the mandatory goods and services as per the Provider Licence. (SFIs para 7.1)
1.11	Establish and disband the sub-committees that are directly accountable to the Board of Directors (BoD SO 5.1.1)
1.12	Receive reports from its sub-committees including those that the Trust is required to establish and take appropriate action.
1.13	Confirm the recommendations of the Trust's sub-committees where they do not have the power to make such a decision. (Where sub-committees made a decision which is within their delegated power this will be regarded as having been made by the Board of Directors)
1.14	Ratify the terms of reference and reporting arrangements of all sub-committees that are formally established by the Board of Directors (BoD SO 4.3).

<b>MATTERS RESERVED TO THE BOARD OF DIRECTORS</b>	
1.15	At its next formal meeting receive a report of the application of the Trust seal since the last report to the Board of Directors (BoD SO 11.3.1).
1.16	Ratify, or otherwise, instances of non-compliance with the Board of Directors' Standing Orders and the justification for such non-compliance (BoD SO 4.7)
1.17	Ratify a memorandum of understanding between the Chair of the Trust and the Chief Executive setting out a division of responsibilities, review any modifications to that memorandum (BoD SO 2.6)
1.18	Approve the wording of any statement of the Board of Directors pertaining to a dispute between the Council of Governors and the Board of Directors (BoD SO 10.3).
1.19	Decide on whether the Trust will insure through the risk pooling schemes administered by the NHS Litigation Authority. (SFIs para 20.2)
1.20	Make any arrangements it considers appropriate to the provision of indemnity insurance or similar arrangements for the benefit of the Trust or directors to meet all or any liability which are properly the liability of the Trust recognising the Public Benefit Corporation status (BoD SO 2.13.2) (SFIs para 20.4)
1.21	Approve any recording by members of the public of any public Board of Directors' meeting (BoD SO 3.2.5).
1.22	Resolve to exclude members of the public from any meeting or part of a meeting (BoD SO 3.1.2)
1.23	Determine that certain matters appear on each agenda of the Board of Directors' meeting (BoD SO 3.4.1)

<b>MATTERS RESERVED TO THE BOARD OF DIRECTORS</b>	
1.24	Provide permission that governors, directors, officers or any employee or representative of the Trust in attendance at a private meeting or private part of a meeting of the Board of Directors may disclose the contents of the papers or any discussion (BoD SO 3 1.9)
1.25	Send a copy of the agenda of the meeting of the Board of Directors to the Council of Governors (BoD SO 3.4.3)
1.26	Send a copy of the minutes of the public Board of Directors' meeting to the Council of Governors (BoD SO 3.9.5)
1.27	Determine the times and places for the meetings of the Board of Directors (BoD SO 3.2)
1.28	Approval of the Trust's banking arrangements. (SFIs para 5.1.2) (SFIs para 5.4.2)
1.29	Approve arrangements relating to the discharge of the Trust's responsibilities as a Corporate Trustee for funds held on Trust
1.30	Approve arrangements relating to the discharge of the Trust's responsibilities as Bailee for patient's monies
1.31	Grant delegated authority to the Chair or other directors to carry out actions on its behalf
<b>2. Appointments / Dismissal / Terms and Conditions</b>	
2.1	Ratify any changes to the overall number of non-executive directors and executive directors (BoD SO 2.8).
2.2	Appoint one of the independent non-executive directors as the Senior Independent Director (BoD SO 2.10.4).

<b>MATTERS RESERVED TO THE BOARD OF DIRECTORS</b>	
2.3	Advise a partner organisation of concerns regarding any individual that an organisation may appoint to the Council of Governors (i.e. an appointed governor) (Const para 11.5).
2.4	Approve the appointment of any advisor to assist or advise the Council of Governors. (Const para 11.6)
2.5	Appoint, discipline and dismiss the Trust Secretary (BoD SO 2.11)
2.6	Consider and approve proposals presented by the Chief Executive for setting remuneration and conditions of service for those employees and officers not covered by the Remuneration Committee. (SFIs 9.1.4)
2.7	Approve procedures presented by the Chief Executive for the determination of commencing pay rates, condition of service etc for employees. (SFIs para 9.3.2)
2.8	Approve the directors' Code of Conduct
<b>3. Strategy, Business Plans, Budgets and Statutory returns</b>	
3.1	Define and set the aim, goals and strategic objectives of the Trust (i.e. the Trust Strategy).
3.2	Approve any supporting (underpinning) strategies (Clinical Services, Estates, IT, Quality, and Workface & Organisational Development. Note: the approval of all other strategies are delegated to the Executive Management Team)
3.3	Approve the capital programme (FP 4.3).

<b>MATTERS RESERVED TO THE BOARD OF DIRECTORS</b>	
3.4	Approve any outline and final business cases for capital investments of £1m or more (or a linked series of projects for which the combined value would exceed £1m).
3.5	Approve any long-term borrowing and ensure this is consistent with the plans outlined in the annual plan (SFIs para 11.2.3)
3.6	Ratify proposals for acquisition, disposal or change of use of land and/or buildings of £1m or more (or a linked series of acquisitions, disposals or change of use of land for which the combined value would exceed £1m)
3.7	Approve any new PFI contract and / or significant changes to PFI contracts (for avoidance of doubt this would include any refinancing agreements).
3.8	Approve proposals in individual cases for the write-off of losses or making of special payments of £500k or more and all those of a novel or contentious nature. (SFIs para 14.2.8)
3.9	Approve the introduction or discontinuance of any significant activity or operation in relation to the Trust. An activity or operation shall be regarded as significant where it is of a novel or contentious nature, or if it has a gross annual income in excess of £1m per annum.
3.10	Approve the introduction or discontinuation of any significant activity or operation relating to the areas of responsibility for those Committees in Common established by the Board, where this has gross annual income or cost to the Trust in excess of £500k per annum.
3.11	Approve the level of non-pay on an annual basis (SFIs para 10.1.1)

<b>MATTERS RESERVED TO THE BOARD OF DIRECTORS</b>	
3.12	Approve orders for items of expenditure in respect of service directorate and corporate budgets where the value is for £1m or more. (FP 4.1)
3.13	Approve the Care Quality Commission Registration Declaration.
3.14	Approve the Trust's Quality Report prior to submission to NHS Improvement.
3.15	Approve any monitoring returns prior to submission to NHS Improvement, ensuring these are submitted at such frequency as is required (SFIs para 3.5.1)
3.16	Approve the Trust's forward plan prior to submission to NHS Improvement, ensuring that it has regard to the views of the Council of Governors
3.17	Receipt and adoption of the Trust's Annual Report and Annual Accounts.
3.18	Where applicable receive recommendations from the evaluation team on matters regarding in-house services that are subject to competitive tendering. (SFIs para 8.9.4)
3.19	Receive reports from the Chief Financial Officer on financial performance against budget and plans.
<b>4. Audit</b>	
4.1	Approve the annual Letter of Representation to the external auditors.

<b>MATTERS RESERVED TO THE BOARD OF DIRECTORS</b>	
4.2	Receive from the External Auditor any Public Interest Report. (SFIs para 2.4.7)
<b>5. Monitoring</b>	
5.1	Receive such reports as the Board sees fit from sub-committees in respect of their exercise of delegated powers, including an annual report of activities undertaken by the sub-committees
5.2	Continuous appraisal of the affairs of the Trust by means of reports to the Board, in whatever format the Board determines
5.3	Receive performance reports against agreed internal, local, contractual and national targets and standards
5.4	Receive and approve key reports as required including reports to and from NHS Improvement in regard to compliance

**SECTION 9 – SCHEDULE OF DECISIONS/DUTIES DELEGATED BY THE POWERS OF THE MENTAL HEALTH ACT 1983 OR ANY OF ITS SUBSEQUENT AMENDMENTS**

**FUNCTIONS WHICH CANNOT BE DELEGATED TO OFFICERS OF THE TRUST**

<b>FUNCTION</b>	<b>STATUTORY REFERENCE</b>	<b>CODE OF PRACTICE REFERENCE</b>	<b>AUTHORISED PERSON/COMMITTEE</b>
Review of patients' detention or Community Treatment Order	MHA S20(3) MHA S20A(5)	Chapter 38	Non-executive Directors and the committee of Mental Health Act Managers (MHAM)
Exercise of hospital managers' power to discharge unrestricted detained patients and patients subject to a Community Treatment Order	MHA S23(2)(a)	Chapter 38	Non-executive Directors and the committee of Mental Health Act Managers (MHAM)

**FUNCTIONS WHICH CAN BE DELEGATED TO OFFICERS OF THE TRUST**

<b>FUNCTION</b>	<b>STATUTORY REFERENCE</b>	<b>CODE OF PRACTICE REFERENCE</b>	<b>AUTHORISED PERSONS</b>
Formal receipt of statutory admission documents for detained patients	MHA S11(2) Regulation 4*	Chapter 35	Professional in charge of a ward/unit or deputy MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager

FUNCTION	STATUTORY REFERENCE	CODE OF PRACTICE REFERENCE	AUTHORISED PERSONS
Receipt of statutory documents in respect of section 5(2)	MHA S5(2) Regulation 4(1)(g)*	Chapter 18 paragraph 18.6	MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager
Receipt of record for purposes of section 5(4)	MHA S5(4) Regulation 4(1)(h)*	Chapter 18 Paragraph 18.26	MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager
Receipt of discharge notice/order by the patient's nearest relative  Receipt of report barring discharge by nearest relative	MHA S25(1) Regulation 25(1)*	Chapter 32 paragraphs 32.21, 32.22 & 32.24	Professional in clinical team MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager  MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager

Reservation of Powers to the Board of Directors and Council of Governors and Schedule of Decisions/Duties Delegated by the Board of Directors

FUNCTION	STATUTORY REFERENCE	CODE OF PRACTICE REFERENCE	AUTHORISED PERSONS
Scrutiny of statutory forms	MHA S15 Regulation 4(3)*	Chapter 35	Administrative scrutiny: MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager  Medical scrutiny: Consultant Psychiatrist (section 12 approved)
Rectification of documentation	MHA S15 Regulation 4(3)*	Chapter 35	MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager
Recording of admission	Regulations 4 and 6*	Chapter 35	Professional in Charge of a ward/unit or deputy MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager

Reservation of Powers to the Board of Directors and Council of Governors and Schedule of Decisions/Duties Delegated by the Board of Directors

FUNCTION	STATUTORY REFERENCE	CODE OF PRACTICE REFERENCE	AUTHORISED PERSONS
Authorisation of the transfer of patients	MHA S19 Regulation 7*	Chapter 37 paragraphs 37.16 – 37.27	Decision to transfer is made by the Responsible Clinician  Documentation is completed by: Professional in Charge of a ward/unit or deputy MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager
Formal receipt of renewal and extension documentation on behalf of the hospital managers	MHA S20(3)(b) MHA S20A(5) Regulation 13*	Chapter 32	MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager
Provision of information to patients and their nearest relatives	MHA S130d, 132, 132A & 133 Regulation 26*	Chapter 4 paragraphs 6.15 and 12.6	Multidisciplinary team MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager As prescribed in Trust s.132 protocol
Submission of statement of authority to the Tribunal	Tribunal Rule 32**	Chapter 12 paragraph 12.11	MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager

FUNCTION	STATUTORY REFERENCE	CODE OF PRACTICE REFERENCE	AUTHORISED PERSONS
Referral of cases to the Tribunal	MHA S68 Tribunal Rule 32**	Chapters 12 and 39 paragraphs 12.10 and 37.39	MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager
Referral of cases to the Secretary of State	MHA S67	Chapter 37 paragraphs 37.44 – 37.46	MH Legislation Officer MH Law Adviser MH Legislation Team Leader MH Legislation Manager
Return of patients who are absent without leave (AWOL)	MHA S18	Chapter 28 Paragraph 28.4, 28.8	Any member of staff of the Trust or Aspire, or any other person authorised by the Hospital Managers (for written authorisation purposes, the of Schedule of Decisions directs that this function can be exercised by a service manager, the patient's responsible clinician or anyone delegated by the service manager or responsible clinician).

\*The Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008 (SI2008/1184)

\*\*Health, Education and Social Care Chamber of the First-tier Tribunal

### References

Mental Health Act 1983 Mental Health Act 1983 Code of Practice 2015

The Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008 (SI 2008/1184)

Tribunal Procedure (First Tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 (SI 2008/2699)

Reference Guide to the Mental Health Act 1983, Department of Health 2015

## SECTION 10 – SCHEDULE OF RESPONSIBILITIES DELEGATED TO THE SUB-COMMITTEES OF THE BOARD OF DIRECTORS

The table below sets out the responsibilities that have been delegated to the sub-committees of the Board of Directors (including Committee in Common). Further details of the individual duties can be found in their respective Terms of Reference.

NAME OF COMMITTEE	DELEGATED RESPONSIBILITY OF THE COMMITTEE
Audit Committee	<p>The purpose of the Audit Committee is to provide the Board of Directors with assurance that:</p> <ul style="list-style-type: none"> <li>• Clinical, financial reporting, compliance, risk management, health and safety and internal control principles and standards are being appropriately applied and are effective, reliable and robust</li> <li>• An effective governance framework is in place for monitoring and continually improving the quality of health care provided to service users to enable the Trust's strategic objectives to be achieved.</li> </ul>
Quality Committee	<p>The Quality Committee has responsibility for providing assurance to the Board of Directors on the effectiveness of the:</p> <ul style="list-style-type: none"> <li>• Trust's quality and safety systems and processes</li> <li>• Quality and safety of the services provided by the Trust</li> <li>• Control and management of quality and safety related risk within the Trust.</li> </ul>
Finance and Performance Committee	<p>The principle purpose of Finance and Performance Committee is to provide the Board with Assurance on financial governance and performance; strategic matters in relation to procurement, estates, information technology and information management; performance against CQUINS; clinical activity and key performance indicators.</p>

NAME OF COMMITTEE	DELEGATED RESPONSIBILITY OF THE COMMITTEE
Nominations Committee	The purpose of the Nominations Committee is to regularly review the structure, size and composition of the Board of Directors and make recommendations for changes where appropriate. In particular, the committee should evaluate the balance of skills, knowledge and experience on the Board of Directors. It shall also have a role in ensuring appropriate succession plans are in place for members of the executive team. In relation to the appointment of executive and non-executive directors the committee shall prepare a description of the role and capabilities required for appointment of both executive and non-executive directors, including the Chair of the Trust.
Remuneration Committee	The purpose of the Remuneration Committee is to provide the Board of Directors with assurance that executive directors are rewarded appropriately for their contribution; that appropriate contractual arrangements are in place; and to be assured of the performance of individual executive directors against their agreed objectives, and that plans are in place to address any areas of development.
West Yorkshire Mental Health Services Collaborative Committees in Common	With our mental health partners in West Yorkshire (Bradford District Care Foundation Trust, Leeds Community Healthcare NHS Trust, and South West Yorkshire Partnership Foundation Trust) the Committees in Common will progress working together to improve acute and specialist mental health services for local communities, as part of the wider West Yorkshire & Harrogate Health and Care Partnership. It will work together as the lead organisations to deliver the Mental Health Five Year Forward View for local people in West Yorkshire, build on what's good and working well already across the region, sharing best practice and designing new service models together.
Leeds Providers' Integrated Care Collaborative Committees in Common	Working with Leeds Teaching Hospitals Trust, Leeds Community Health, and Leeds GP Confederation, the Committees in Common will work to better integrate health services across the city, in order to improve care and outcomes for people and make best use of resources.