

Torbay and South Devon NHS Foundation Trust

Board of Directors Standing Financial Instructions

Document Information

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STANDING FINANCIAL INSTRUCTIONS

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1. INTRODUCTION

1.1 General

- 1.1.1 The Torbay and South Devon NHS Foundation Trust is a public benefit corporation which was established originally as South Devon healthcare NHS Foundation Trust under the Health and Social Care (Community Health and Standards) Act 2003 on 1 March 2007 and Changed its name to Torbay and South Devon NHS Foundation Trust on 1st October 2015. NHS Foundation Trusts are governed by statute, mainly the National Health Service Act 2006, Health and Social Care Act 2012 and the National Health Service Act 1977 (NHS Act 1977). The Integrated Care Organisation (ICO) from 1 October 2015 will also need to take into consideration the Care Act 2014 and any subsequent amendments.
- 1.1.2 These Standing Financial Instructions (SFIs) are issued in accordance with the Trust (Functions) Directions 2000 issued by the Secretary of State which require that each Trust shall agree Standing Financial Instructions for the regulation of the conduct of its members and officers in relation to all financial matters with which they are concerned. They shall have effect as if incorporated in the Standing Orders (SOs).
- 1.1.3 These Standing Financial Instructions detail the financial responsibilities, policies and procedures to be adopted by the Trust. They are designed to ensure that its financial transactions are carried out in accordance with the law and Government policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the Scheme of Decisions reserved to the Board of Directors and the Scheme of Delegation adopted by the Trust.
- 1.1.4 These Standing Financial Instructions identify the financial responsibilities which apply to everyone working for the Trust and its constituent organisations including Trading Units and any Shared Service Centre. They do not provide detailed procedural advice. These statements should therefore be read in conjunction with the detailed departmental and financial procedure notes. All financial procedures must be approved by the Director of Finance (Torbay Pharmaceuticals (TP) delegated to TP Managing Director with the advice of the TP Director of Finance). All managers have a responsibility to ensure that their staff have been notified of key Standing Financial Instructions.
- 1.1.5 Should any difficulties arise regarding the interpretation or application of any of the Standing Financial Instructions then the advice of the Director of Finance or the Director of Internal Audit **MUST BE SOUGHT BEFORE YOU ACT**. The user of these Standing Financial Instructions should also be familiar with and comply with the provisions of the Trust's Standing Orders.

1.1.6 **FAILURE TO COMPLY WITH STANDING FINANCIAL INSTRUCTIONS AND STANDING ORDERS IS A DISCIPLINARY MATTER THAT COULD RESULT IN DISMISSAL.**

1.1.7 **Overriding Standing Financial Instructions** – If for any reason these Standing Financial Instructions are not complied with full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance shall be reported to the next formal meeting of the Audit and Assurance Committee for referring action or ratification. All members of the Board of Directors and staff have a duty to disclose any non-compliance with these Standing Financial Instructions to the Director of Finance as soon as possible.

1.2 Terminology

Any expression to which a meaning is given in the National Health Service Act 1977, National Health Service and Community Care Act 1990, National Health Service Act 2006 and other Acts relating to the National Health Service or in the Financial Regulations made under the Acts shall have the same meaning in this interpretation and in addition:

1.2.1 **"Accounting Officer"** means the NHS Officer responsible and accountable for funds entrusted to the Trust. He shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the Chief Executive.

1.2.2 **"Board of Directors"** means the Board of Directors comprising of the Chairman, the Chief Executive, seven Executive Directors and seven Non-Executive Directors as defined in the Trust's Constitution.

1.2.3 **"Budget"** means a resource, expressed in financial terms or other quantitative term, proposed by the Board of Directors for the purpose of carrying out, for a specific period, any or all of the functions of the Trust.

1.2.4 **"Budget holder"** means the Director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation.

1.2.5 **"Chairman of the Board of Directors"** is the person appointed by the Council of Governors to lead the Board of Directors and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression "the Chairman of the Trust" shall be deemed to include the Vice-Chairman of the Trust if the Chairman is absent from the meeting or is otherwise unavailable.

1.2.6 **"Chief Executive"** means the Chief Officer of the Trust.

- 1.2.7 "**Commissioning**" means the process for determining the need for and for obtaining the supply of healthcare and related services by the Trust within available resources.
- 1.2.8 "**Committee**" means a Committee or Sub-Committee created and appointed by the Trust or Council of Governors.
- 1.2.9 "**Committee members**" means person's formally appointed by the Board of Directors or Council of Governors to sit on or to chair specific committees.
- 1.2.10 "**Contracting and procuring**" means the systems for obtaining the supply of goods, materials, manufactured items, services, building and engineering services, works of construction and maintenance and for disposal of surplus and obsolete assets.
- 1.2.11 "**Director of Finance**" means the chief financial officer of the Trust.
- 1.2.12 "**Executive Director**" means a member of the Trust who is an officer of the Trust.
- 1.2.13 "**Funds held on trust**" shall mean those funds which the Trust holds on date of incorporation, receives on distribution by statutory instrument or chooses subsequently to accept under Schedule 2 Part II para 16.1.c NHS & Community Care act 1990. Such funds may or may not be charitable.
- 1.2.14 "**Council of Governors**" means that body of elected and appointed Governors, authorised to be members of the Council of Governors and act in accordance with the Constitution.
- 1.2.15 "**Legal Adviser**" means the properly qualified person appointed by the Trust to provide legal advice.
- 1.2.16 "**Member**" means Executive or Non-Executive Director of the Board of Directors. (Member in relation to the Board of Directors does not include its Chairman.)
- 1.2.17 "**Associate Member**" means a person appointed to perform specific statutory and non-statutory duties which have been delegated by the Board of Directors for them to perform and these duties have been recorded in an appropriate Board of Directors minute or other suitable record.
- 1.2.18 "**Nominated officer**" means an officer charged with the responsibility for discharging specific tasks within Standing Orders and Standing Financial Instructions.

- 1.2.19 **"Non-Executive Director"** means a Member of the Board of Directors who does not hold an executive office of the Trust.
- 1.2.20 **"Officer"** means employee of the Trust or any other person holding a paid appointment or office with the Trust.
- 1.2.21 **"Secretary"** means a person appointed by the Trust (the Company Secretary) to act independently of the Board of Directors and Council of Governors and monitor the Trust's compliance with the law, SOs and observance of Constitution and licence.
- 1.2.22 **"SFIs"** means Standing Financial Instructions.
- 1.2.23 **"SOs"** means Standing Orders.
- 1.2.24 **"Trust"** means Torbay and South Devon NHS Foundation Trust. "TP" means Torbay Pharmaceuticals
- 1.2.25 **"Vice-Chairman"** means the Non-Executive Director ratified by the Governance Board to take on the Chairman's duties if the Chairman is absent for any reason.
- 1.2.26 Wherever the title "Chief Executive", "Director of Finance", or other nominated officer is used in these instructions, it shall be deemed to include such other Director or employee who has been duly authorised to represent them.
- 1.2.27 Wherever the item "employee" is used it shall be deemed to include employees of third parties contracted to the Trust when acting on behalf of the Trust. In addition "employee" includes all nursing and medical staff and consultants practising upon Trust premises or contracted to perform services on other premises on behalf of Trust.
- 1.2.28 All references in these Standing Financial Instructions to the masculine gender shall be read as equally applicable to the feminine gender and vice versa.

1.3 Responsibilities and Delegation

1.3.1 The Board of Directors

The Board of Directors exercises financial supervision and control by:

- a) formulating the financial strategy;
- b) requiring the submission and approval of budgets within approved allocations/overall income;
- c) defining and approving essential features in respect of important procedures and financial systems (including the need to obtain value for money); and

- d) defining specific responsibilities placed on directors and employees as indicated in the Scheme of Delegation Document.

1.3.2 The Board of Directors has resolved that certain powers and decisions may only be exercised by the Board of Directors in formal session. These are set out in the Reservation of Powers to the Board of Directors and Scheme of Delegation. All other powers have been delegated to such other committees as the Trust has established.

1.3.3 **The Chief Executive and Director of Finance**

The Chief Executive and Director of Finance will, as far as possible, delegate their detailed responsibilities, but they remain accountable for financial control.

Within the Standing Financial Instructions, it is acknowledged that the Chief Executive is ultimately accountable to the Board of Directors for ensuring that the Board of Directors meets its obligation to perform its functions within the available financial resources. The Chief Executive has overall executive responsibility for the Trust activities and is responsible to the Board of Directors for ensuring that its financial obligations and targets are met and has overall responsibility for the Trust's system of internal control.

1.3.4 It is a duty of the Chief Executive to ensure that existing directors and employees and all new appointees are notified of and understand their responsibilities within these Instructions.

1.3.5 **The Director of Finance**

The Director of Finance is responsible for:

- a) implementing the Trust financial policies and for co-ordinating any corrective action necessary to further these policies;
- b) maintaining an effective system of internal financial control including ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions;
- c) ensuring that sufficient records are maintained to show and explain the Trust transactions, in order to disclose, with reasonable accuracy, the financial position of the Trust at any time;

and, without prejudice to any other functions of Directors and employees to the Trust, the duties of the Director of Finance include:

- d) the provision of financial advice to the Trust and its Directors and employees;

- e) the design, implementation and supervision of systems of financial control; and
- f) the preparation and maintenance of such accounts, certificates, estimates, records and reports as the Trust may require for the purpose of carrying out its statutory duties.

1.3.6 **Board of Directors Members and Employees**

All members of the Board of Directors and employees, severally and collectively, are responsible for:

- a) the security of the property of the Trust;
- b) avoiding loss;
- c) exercising economy and efficiency in the use of resources; and
- d) conforming with the requirements of Standing Orders, Standing Financial Instructions, Financial Procedures and the Scheme of Delegation.

1.3.7 **Contractors and their Employees**

Any contractor or employee of a contractor who is empowered by the Trust to commit the Trust to expenditure or who is authorised to obtain income shall be covered by these instructions. It is the responsibility of the Chief Executive to ensure that such persons are made aware of this.

- 1.3.8 For all members of the Board of Directors and any employees who carry out a financial function, the form in which financial records are kept and the manner in which members of the Board of Directors and employees discharge their duties must be to the satisfaction of the Director of Finance.

2. **AUDIT**

2.1 **Audit and Assurance Committee**

- 2.1.1 In accordance with Standing Orders, the Board of Directors has formally established an Audit and Assurance Committee, with clearly defined terms of reference and following guidance from the NHS Audit Committee Handbook (May 2014), which will provide an independent and objective view of internal control by:

- a) overseeing Internal and External Audit services and matters;
- b) review the annual financial statements prior to submission to the Board of Directors;
- c) reviewing policies and procedures in respect of fraud, bribery and corruption and to receive the Annual Report and Plan of the Local Counter Fraud Specialists;
- d) monitoring the implementation of policy on standards of business conduct for members and staff, thus offering assurance to the Board

of Directors that strict ethical standards are maintained in the conduct of business;

- e) reviewing financial and information systems and monitoring the integrity of the financial statements and reviewing significant financial reporting judgments;
- f) review the establishment and maintenance of an effective system of integrated governance, risk management and internal control, across the whole of the organisation's activities (both clinical and non-clinical), that supports the achievement of the organisation's objectives;
- g) monitoring compliance with Standing Orders and Standing Financial Instructions;
- h) reviewing schedules of losses and compensations and making recommendations to the Board of Directors;
- i) reviewing the assurance gained through the development of the Assurance Framework and to consider the gaps in control and gaps in assurance and report the results to the Board of Directors;
- j) discuss problems and reservations arising from any audit work and any matters arising which the Auditor's may wish to discuss (in the absence of Executive Directors and other management where necessary; and
- k) other duties as approved in the Audit and Assurance Committee Terms of Reference.

2.1.2 Where the Audit and Assurance Committee consider there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters that the committee wish to raise, the Chairman of the Audit & Assurance Committee shall raise the matter at a full meeting of the Board of Directors. Exceptionally, the matter may need to be referred to NHS Improvement. (To the Director of Finance in the first instance)

2.1.3 It is the responsibility of the Director of Finance to ensure an adequate internal audit service is provided and the Audit and Assurance Committee shall be involved in the selection process when an internal audit service provider is changed.

The responsibility for ensuring that recommendations made by internal and external audit are implemented is delegated to the managers named within those reports.

The responsibility for the maintenance and update of Trust Financial Procedures is delegated to the Deputy Director of Finance and in his or her absence the Assistant Director of Finance (Corporate Finance). Any amendments to these will be agreed with the Trust's internal audit service.

2.2 Director of Finance

2.2.1 The Director of Finance is responsible for:

- a) ensuring there are arrangements to review, evaluate and report on the effectiveness of internal financial control including the establishment of an effective Internal Audit function;
- b) ensuring that the Internal Audit is adequate and meets the Public Sector Internal Audit Standards;
- c) deciding at what stage to involve the police in cases of misappropriation and other irregularities not involving fraud, bribery or corruption;
- d) ensuring that an annual audit report is prepared for the consideration of the Audit and Assurance Committee and the Board of Directors. The report must cover:
 - (i) a clear opinion on the effectiveness of internal control in accordance with current controls assurance guidance issued by the Department of Health including for example compliance with control criteria and standards;
 - (ii) major internal control weaknesses discovered;
 - (iii) progress on the implementation of internal audit recommendations;
 - (iv) progress against plan over the previous year; and
 - (v) a detailed annual operational plan forming part of a three year strategic plan.
- e) ensuring that there is effective liaison with the relevant NHS Protect regional team on all suspected cases of fraud and bribery and all anomalies which may indicate fraud or bribery before any action is taken.

2.2.2 The Director of Finance or designated auditors or counter fraud specialists are entitled without necessarily giving prior notice to require and receive:

- a) access to all records, documents and correspondence relating to any relevant transactions, including documents of a confidential nature (in which case, he shall have a duty to safeguard that confidentiality);
- b) access at all reasonable times to any land, premises or members of the Board of Directors or employee of the Trust;
- c) the production of any cash, stores or other property of the Trust under an employee's control; and
- d) explanations concerning any matter under investigation from any employee, agent or any employees of third parties contracted to the Trust when acting on behalf of the Trust.

2.3 Role of Internal Audit

2.3.1 Internal Audit will review, appraise and report upon:

- a) the extent of compliance with, and the effect of, relevant established policies, plans and procedures;
- b) the adequacy and application of financial and other related management controls;
- c) the suitability of financial and other related management data;
- d) the extent to which the Trust's assets and interests are accounted for and safeguarded from loss of any kind, arising from:
 - i) fraud and other offences;
 - ii) waste, extravagance, inefficient administration;
 - iii) poor value for money or other causes.
- e) adequacy and appropriateness of remedial action taken by managers following the issue of an adverse audit report or audit comment.

2.3.2 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores, or other property or any suspected irregularity in the exercise of any function of a pecuniary nature, the Director of Finance must be notified immediately, or in his absence the Internal Audit Department.

2.3.3 The Director of Internal Audit will normally attend Audit and Assurance Committee meetings and has a right of access to all Audit and Assurance Committee Members, the Chairman and Chief Executive of the Trust.

2.3.4 The Director of Internal Audit shall be accountable to the Director of Finance. The reporting system for Internal Audit shall be agreed between the Director of Finance, the Audit and Assurance Committee and the Director of Internal Audit. The agreement shall be in writing and shall comply with the guidance on reporting contained in the Public Sector Internal Audit Standards. The reporting system shall be reviewed at least every three years.

2.3.5 A summation of all Internal Audit's work and reviews, shall be reported to the Audit and Assurance Committee and their attention drawn to any continuing item(s) of concern.

2.4 External Audit

2.4.1 The external auditor is appointed by the Council of Governors at a general meeting of the Council of Governors and paid for by the Trust. A person may only be appointed auditor if he (or in the case of a firm each of its Members) is a Member of one or more of the bodies referred to in National Health Service Act 2006 (Schedule 7, para 23). The Audit and

Assurance Committee must ensure a cost-efficient service. Should there appear to be a problem, then this should be raised with the external auditor.

The Director of Internal Audit Services shall work closely with External Audit and conduct joint planning audit coverage in order to minimise duplication of work and to provide the Trust with the best value for money.

2.5 Fraud, Bribery and Corruption

2.5.1 In line with their responsibilities, the Trust Chief Executive and the Director of Finance are responsible for overseeing and providing strategic management and support for all anti-fraud, bribery and corruption work within the Trust.

2.5.2 Anti-fraud, bribery and corruption services are provided under arrangements proposed by the Director of Finance and approved by the Audit and Assurance Committee, on behalf of the Board.

2.5.3 Only the Director of Finance may commission the procurement of anti-fraud, bribery and corruption services, having sought the approval of the Audit and Assurance Committee.

2.5.4 The Local Counter Fraud Specialist will report to the Director of Finance and ensure a written report is provided at least annually to the Audit and Assurance Committee on anti-fraud, bribery and corruption work within the Trust.

2.6 Security Management

2.6.1 In line with their responsibilities, the Trust Chief Executive will monitor and ensure compliance with Directions issued by the Secretary of State for Health on NHS security management.

2.6.2 The Trust shall nominate a suitable person to carry out the duties of the Local Security Management Specialist (LSMS) as specified by the Secretary of State for Health guidance on NHS security management.

2.6.3 The Trust shall nominate a Non-Executive Director to be responsible to the Board of Directors for NHS security management.

2.6.4 The Chief Executive has overall responsibility for controlling and coordinating security. However, key tasks are delegated to the Security Management Director (SMD) and the appointed Local Security Management Specialist (LSMS).

3. ALLOCATIONS, BUSINESS PLANNING, BUDGETARY CONTROL AND MONITORING

3.1 Preparation and Approval of Business Plans and Budgets

3.1.1 The Chief Executive will compile and submit to the Board of Directors for approval an annual plan which takes into account financial targets and forecast limits of available resources and is in accordance with the guidance issued by NHS Improvement/Monitor. The Annual Plan will contain:

- a) a statement of the significant assumptions on which the plan is based; and
- b) details of major changes in workload, delivery of services or resources required to achieve the plan.

3.1.2 The Plan shall be reconcilable to an annual update of the financial proformas which the Director of Finance will prepare and submit to the Board of Directors and NHS Improvement/Monitor.

3.1.3 The Chief Executive is responsible for identifying and implementing cost improvements and income generation initiatives in accordance with the requirements of the Annual Plan and the delivery of a balanced budget.

3.1.4 Prior to the start of the financial year the Director of Finance will, on behalf of the Chief Executive, prepare and submit budgets for approval by the Board of Directors. Such budgets will:

- a) be in accordance with the aims and objectives set out in the Business Plan;
- b) accord with workload and workforce plans;
- c) be produced following discussion with appropriate budget holders;
- d) be prepared within the limits of available funds; and
- e) identify potential risks.

3.1.5 The Director of Finance shall monitor financial performance against budget and business plan, periodically review them, and report to the Board of Directors. As a consequence the Director of Finance shall have the right of access to all budget holders on budgetary related matters.

3.1.6 All budget holders will sign up to their allocated budgets at the commencement of each financial year.

3.1.7 The Director of Finance has a responsibility to ensure that adequate training is delivered on an on-going basis to budget holders to help them manage successfully.

3.2 Budgetary Delegation

3.2.1 The Chief Executive may delegate the management of a budget to permit the performance of a defined range of activities. This delegation must be in writing and be accompanied by a clear definition of:

- a) the amount of the budget;
- b) the purpose(s) of each budget heading;
- c) individual and group responsibilities;
- d) authority to exercise virement;
- e) achievement of planned levels of service; and
- f) the provision of regular reports.

Responsibility of keeping expenditure within budgets is delegated on the following basis:

- a) Trust wide reserves – Director of Finance (Deputy Director in absence of Director);
- b) At Divisional level – Divisional Managers;
- c) At Directorate level – Directorate Managers;
- d) At Specialty Level – Clinical Directors and Operational Managers;
- e) For all other areas – Budget Holders of whom a list is maintained within the Finance Department. Divisional managers and Directors must keep finance informed of personnel changes in a timely manner.

Any changes to services that have a contractual or financial implication (such as the agreement of a new service with a Commissioner or variation of existing service) should be approved by the Chief Executive or Director of Finance or Deputy Director of Finance, or Executive Team, or Finance, Performance and Investment Committee or Board (depending on the financial thresholds as set out in the Scheme of Delegation) prior to service change and prior to contract changes being formally agreed.

3.2.2 The Chief Executive and delegated budget holders must not exceed the budgetary total or virement limits set by the Board of Directors.

3.2.3 Budgets shall be used only for the purpose for which they were provided and any budgeted funds not required for their designated purpose(s) revert to the immediate control of the Chief Executive, subject to any authorised use of virement.

3.2.4 Non-recurring budgets should not be used to finance recurring expenditure without the authority in writing of the Chief Executive or Director of Finance.

3.3 Budgetary Control and Reporting

3.3.1 The Director of Finance will devise and maintain systems* of budgetary control. These will include:

- a) monthly financial reports to the Board of Directors in a form approved by the Board of Directors containing:
 - i) income and expenditure to date showing trends and forecast year-end position;
 - ii) movements in working capital;
 - iii) movements in cash and capital;
 - iv) capital project spend and projected outturn against plan;
 - v) explanations of any material variances from plan; and
 - vi) details of any corrective action being taken by managers where necessary and the Chief Executive's and/or Director of Finance's view of whether such actions are sufficient to correct the situation.
- b) the issue of timely, accurate and comprehensive advice and financial reports to each budget holder, covering the areas for which they are responsible;
- c) investigation and reporting of variances from financial, workload and workforce budgets;
- d) monitoring of management action to correct variances; and
- e) arrangements for the authorisation of budget transfers.

3.3.2 Each Budget Holder is personally responsible for ensuring that:

- a) any overspending or planned reduction of income which cannot be met by virement is not incurred without the prior consent of the Board of Directors;
- b) any significant reduction in income which cannot be met by corresponding cost saving should be reported to the Board of Directors;
- c) the amount provided in the approved budget is not used in whole or in part for any purpose other than that specifically authorised subject to the rules of virement;
- d) no permanent employees are appointed without the approval of the Chief Executive other than those provided for in the budgeted establishment as approved by the Board of Directors; and

- e) they provide information as requested by the Director of Finance to discharge his duties as in 3.3.1 above.

3.3.3 The Chief Executive is responsible for identifying and implementing cost improvements and income generation initiatives in accordance with the requirements of the Business Plan and a balanced budget.

3.4 Capital Expenditure

3.4.1 The general rules applying to delegation and reporting shall also apply to capital expenditure. (The particular applications relating to capital are contained in Section 14 of the Written Financial Procedures).

3.5 Monitoring Returns

3.5.1 The Chief Executive is responsible for ensuring that the appropriate monitoring forms are submitted to NHS Improvement/Monitor with agreed timescales.

* NOTE - The requirements of the Budgetary Control system are contained within Section 9 of the Written Financial Procedures.

4. ANNUAL ACCOUNTS AND REPORTS

4.1 The Director of Finance, on behalf of the Trust, will:

- a) prepare financial returns in accordance with the guidance given by NHS Improvement/Monitor and the Treasury, the Trust's accounting policies, and generally accepted accounting principles;
- b) prepare, certify and submit annual financial reports to NHS Improvement/Monitor in accordance with current guidelines; and
- c) submit financial returns to NHS Improvement/Monitor for each financial year in accordance with the timetable prescribed by NHS Improvement/Monitor.

4.2 The Trust's Annual Accounts must be audited by an auditor appointed by the Council of Governors in accordance with the appointment process set out in the Audit Code for NHS Foundation Trusts issued by the Independent Regulator.

4.3 The Trust will publish an Annual Report, in accordance with guidelines on local accountability, and present it at a public meeting of the Council of Governors. The document will comply with the NHS Foundation Trust Financial Reporting Manual (FT FReM) The document will include inter alia:

- a) the Annual Accounts of the Trust;

- b) reference to the Register of Directors interests and how this can be viewed;
- c) composition of the Executive Nominations and Remuneration Committee and the Audit and Assurance Committee;
- d) remuneration of the Chairman, highest-paid Director, and other Directors and higher-paid employees; and
- e) an Annual Governance Statement by the Chief Executive on internal control in accordance with guidance from the Department of Health and NHS Improvement/Monitor.

5. BANK AND GOVERNMENT BANKING SERVICE ACCOUNTS

5.1 General

5.1.1 The Director of Finance is responsible for managing the Trust's banking arrangements and for advising the Trust on the provision of banking services and operation of accounts. This advice will take into account guidance/directions issued from time to time by NHS Improvement/Monitor. The following arrangements for the operation of Trust bank accounts must be applied in conjunction with the Trust's Treasury Management Policy (as incorporated into the Trust's written financial procedures) and the specific requirements within that policy for borrowing and the investment of surplus cash.

5.1.2 The Board of Directors shall approve the banking arrangements.

5.2 Bank and Government Banking Service Accounts (GBS)

5.2.1 The Director of Finance is responsible for:

- a) Government Banking Service and bank accounts;
- b) establishing separate bank accounts for the Trust's non-exchequer funds;
- c) ensuring payments made from bank or Government Banking Service accounts do not exceed the amount credited to the account except where arrangements have been made; and
- d) reporting to the Board of Directors all arrangements made with the Trust bankers for accounts to be overdrawn.

5.3 Banking Procedures

5.3.1 The Director of Finance will prepare detailed instructions* on the operation of bank and GBS accounts which must include:

- a) the conditions under which each bank and GBS account is to be operated;
- b) the limit to be applied to any overdraft; and
- c) those authorised to sign cheques or other orders drawn on the Trust accounts or hold keys to any pre-signed cheques.

5.3.2 The Director of Finance must advise to the Trust bankers in writing, of the conditions under which each account will be operated; the limits to be applied to any overdraft and the limitation on single signatory payments and any changes that may be required by financial regulations of the Health Service or by resolution of the Board of Directors as may be necessary from time to time. In addition, the Director of Finance shall advise the bankers and the GBS, in writing, of the officer(s) and/ or Director(s) authorised to release money from, and draw cheques on, each bank account of Torbay and South Devon NHS Foundation Trust and shall notify promptly the cancellation of any such authorisation.

5.3.3 All funds shall be held in accounts in the name of the Trust.

5.3.4 No officer other than the Director of Finance shall open any bank account in the name of Torbay and South Devon NHS Foundation Trust or any entity controlled by Torbay and South Devon NHS Foundation Trust

5.3.5 Payments over £100,000 shall be supported by more than one authorised signature on the cheque or authority to pay, as appropriate.

5.3.6 No cheque signatory shall sign cheques or other orders where he is the named payee.

* "Procedural Instructions" on the operation of Bank and GBS accounts are contained within Section 21 "Banking" of the Written Financial Procedures and the Trust's Treasury Management Policy

NB - Covered by SO tendering rules and requirement from the Bank of England over the use of the Government Banking Service

6. INCOME, FEES AND CHARGES, AND SECURITY OF CASH, CHEQUES AND OTHER NEGOTIABLE INSTRUMENTS

6.1 Income Systems

6.1.1 The Director of Finance is responsible for designing, maintaining and ensuring compliance with systems for the proper recording, invoicing, collection and coding of all monies due and including income from Income Generation Schemes of all types.

6.1.2 The Director of Finance is also responsible for ensuring that systems are in place for the prompt banking of all monies received.

6.2 Fees and Charges

6.2.1 The Director of Finance is responsible for approving and regularly reviewing the level of all fees and charges other than those determined by the Department of Health or by Statute. For the TP, the Managing Director in conjunction with the TP Director of Finance will set prices in line with a pricing policy approved by the TP Board.

The Managing Director of TP is authorised to enter into TP revenue (sales) contracts up to £250,000.

The Managing Director of TP and the TP Director of Finance are jointly authorised to approve TP revenue contracts of between £250,000 and £1,000,000.

Any TP revenue contract values in excess of £1,000,000 must be authorised by:

- the TP Board followed by the Trust Finance, Performance and Investment Committee or
- exceptionally by the Trust's Chief Executive.

Independent professional advice on matters of valuation shall be taken as necessary. Where sponsorship income (including items in kind such as subsidised goods or loans of equipment) is considered the guidance in the Department of Health's Commercial Sponsorship – Ethical standards in the NHS shall be followed.

6.2.2 All employees must inform the Director of Finance promptly of money due arising from transactions which they initiate/deal with, including all contracts, leases, tenancy agreements, private patient undertakings and other transactions.

6.2.3 Any income generated from the activities of staff working in their employment hours, and/or utilising any of the Trust facilities shall be declared as Trust Exchequer Income and dealt with in line with the Trust official income systems and controls and any relevant aspects of an employee's terms and conditions of employment.

In respect of setting of Fees and Charges the Director of Finance has delegated responsibility for:

- a) Private Patients , Overseas Patients, Income Generation Schemes and other Patient related services income sources; and
- b) Prices for NHS Contracts.

6.2.4 All income generation activities shall be approved, before they are undertaken, by the appropriate budget holder/manager, and comprehensive and detailed records retained for audit. Such approval shall only be granted where the scheme generates a minimum of break even after taking account of all overheads and after further approval of prices by the Director of Finance paragraph 6.2.2 above.

6.3 Debt Recovery

6.3.1 The Director of Finance is responsible for the appropriate recovery action on all outstanding debts. The Managing Director of the TP will take responsibility for determining credit control arrangements for TP debts with the advice of the TP Director of Finance and be accountable to the TP Board for those processes.

6.3.2 Income not received should be dealt with in accordance with losses procedures. (For clarity this requirement does not apply to credit notes)

6.3.3 Overpayments should be prevented, detected and recovery initiated.

6.3.4 In respect of debts relating to the provision of social care the Director of Finance shall apply such standards as determined with the input from the Head of Finance from the relevant council.

6.4 Security of Cash, Cheques and Other Negotiable Instruments

6.4.1 The Director of Finance is responsible for:

- a) approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable;
- b) ordering and securely controlling any such stationery;
- c) the provision of adequate facilities and systems for employees whose duties include collecting and holding cash, including the provision of safes or lockable cash boxes, the procedures for keys, and for coin operated machines; and
- d) prescribing systems and procedures for handling cash and negotiable securities on behalf of the Trust.

6.4.2 Official money shall not under any circumstances be used for the encashment of private cheques. IOUs are strictly prohibited.

- 6.4.3 All cheques, postal orders, cash etc., shall be banked intact. Disbursements shall not be made from cash received, except under arrangements approved by the Director of Finance.
- 6.4.4 The holders of safe keys shall not accept unofficial funds and/or valuables for depositing in their safes unless such deposits are in special sealed envelopes or locked containers. It shall be made clear to the depositors that the Trust is not to be held liable for any loss, and written indemnities must be obtained from the organisation or individuals absolving the Trust from responsibility for any loss.
- * The requirements of the income system and write off are contained within Section 8 "Income" and Section 6 "Condemnations, Losses and Special Payments" of the Written Financial Procedures.
- ** "Procedural Instructions" concerning security, checking and disposal of assets are contained within Section 22 Security of Assets and Section 14 Capital Expenditure (for Capital Assets) of the Written Financial Procedures.

7. CONTRACTING FOR PROVISION OF PATIENT AND CLIENT SERVICES

- 7.1 The Chief Executive is responsible for establishing contracts for the provision of services in accordance with the Annual Plan, and for establishing the arrangements for providing extra-contractual services. In carrying out these functions, the Chief Executive should take into account the advice of the Director of Finance regarding:
- a) costing and pricing of services;
 - b) payment terms and conditions; and
 - c) amendments to contracts and extra-contractual arrangements.
- 7.2 Contracts should be so devised as to minimise risk whilst maximising the Trust's opportunity to generate income. Contract prices should comply with NHS Improvement/Monitor 'Costing and Pricing' guidelines.
- 7.3 The Director of Finance shall produce regular reports detailing actual and forecast contract income with a detailed assessment of the impact of the variable elements of income.
- 7.4 The Chief Executive or Director of Finance or Deputy Director of Finance or Head of Contracts / TP Managing Director / Person responsible for adult social care (see scheme of Delegation for thresholds) are the only officers empowered to sign contracts and contract variations on behalf of the Trust.

8. TENDERING AND CONTRACT PROCEDURE

8.1 Duty to Comply with Standing Orders and Standing Financial Instructions

The procedure for making all contracts by or on behalf of the Trust shall comply with these Standing Orders and Standing Financial Instructions (except where Standing Order 3.13 Suspension of Standing Orders is applied).

8.1.1 Quotation, Tendering & Contract Procedures are delegated in the following way.

Figures are exclusive of VAT.

- a) Obtaining 1 written or 2 verbal quotation's for goods/services up to £5,000.

Head of Procurement and Logistics / Budget Manager / Estates Officer / TP Managing Director / Person responsible for adult social care or their procurement professional

A note should be placed on file as a record of the verbal quotation obtained.

- b) Obtaining 3 written quotations for goods/ services not exceeding £50,000.

Director of Estates and Strategic Development / Head of Procurement and Logistics / Divisional General Manager / Board Director / HIS Director / TP Managing Director / Person responsible for adult social care or their procurement professional and for tenders relating to peninsula Alliance Peninsula Procurement Alliance Director.

- c) Obtaining 3 written competitive tenders for goods/services exceeding £50,000.

Director of Estates and Strategic Development / Head of Procurement and Logistics / TP Managing Director / Person responsible for adult social care or their procurement professional and Peninsula Procurement Alliance Director (for tenders relating to Peninsula Alliance Contracts or its successor only).

- d) The waiving of formal quotation and tendering procedures (subject to points a) to c).

Chief Executive or Director of Finance or in their absence the Deputy Director of Finance.

8.1.2 With regard to the awarding of contracts for the provision of Adult Social Care, regard must be taken to the needs of the client as well as the anticipated cost of the contract. As such all contracts with a weekly charge of:

- a) to £650 should be agreed by a member of the Zone Management Teams(band 7 and above);
- b) £651 to £1,999 should be agreed by Complex Care Panel; and
- c) all other contracts above this figure be agreed by the person responsible for adult social care , Head of Operations, Director of Operations or Chief Executive.

8.2 EU Directives Governing Public Procurement

Directives by the Council of the European Union promulgated by the Department of Health (DH) prescribing procedures for awarding all forms of contracts shall have effect as if incorporated in these Standing Orders and Standing Financial Instructions.

8.3 Capital Investment Manual and Other Department of Health Guidance

The Trust shall comply as far as is practicable with the requirements of the Department of Health "Capital Investment Manual" and "Estate code" in respect of capital investment and estate and property transactions. In the case of management consultancy contracts the Trust shall comply as far as is practicable with Department of Health guidance "The Procurement and Management of Consultants within the NHS".

The Trust is able to use Framework agreements that have been put in place to enable government organisations to rely on the Framework for compliance with Tendering Regulation or legislation eg. P21plus, Buying Solutions or other such agreements.

8.4 Formal Competitive Tendering

8.4.1 General Applicability

The Trust shall ensure that competitive tenders are invited for:

- a) the supply of goods, materials and manufactured articles;
- b) the rendering of services(excluding Health and Social Care see section 8.4.2) including all forms of management consultancy services (other than specialised services sought from or provided by the DH);
- c) for the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens); and
- d) for disposals.
(unless another organisation has set up a local or national framework within which the Trust is legally entitled to procure under.)

8.4.2 Health and Social Care Services

Where the Trust elects to invite tenders for the supply of health or social care these Standing Orders and Standing Financial Instructions shall apply as far as they are applicable to the tendering procedure and need to be read in conjunction with Standing Financial Instruction No. 7.

8.4.3 Cancellation of Contracts

Except where specific provision is made in model Forms of Contracts or standard Schedules of Conditions approved for use within the NHS and in accordance with Standing Orders 8.2 and 8.3 there shall be inserted in every written contract a clause empowering the Trust to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered, or given or agreed to give, any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Trust, or for showing or forbearing to show favour or disfavour to any person in relation to the contracts or any other contract with the Trust, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Trust the contractor or any person employed by him/her or acting on his/her behalf shall have committed any offence under the Bribery Act 2010 and other appropriate legislation.

8.4.4 Determination of Contracts for Failure to Deliver Goods or Material

There shall be inserted in every written contract for the supply of goods or materials a clause to secure that, shall the contractor fail to deliver the goods or materials or any portion thereof within the time or times specified in the contract, the Trust may without prejudice determine the contract either wholly or to the extent of such default and purchase other goods, or material of similar description to make good (a) such default, or (b) in the event of the contract being wholly determined the goods or materials remaining to be delivered. The clause shall further secure that the amount by which the cost of so purchasing other goods or materials exceeds the amount which would have been payable to the contractor in respect of the goods or materials shall be recoverable from the contractor.

8.4.5 Exceptions and Instances where Formal Tendering need not be applied

Formal tendering procedures need not be applied where:

- a) the estimated expenditure or income does not, or is not reasonably expected to, exceed £50,000 (exclusive of VAT);

- b) where the supply is proposed under special arrangements negotiated by the DoH in which event the said special arrangements must be complied with; and
- c) regarding disposals as set out in Standing Financial Instructions No. 14.

Formal tendering procedures may be waived in the following circumstances:

- d) in very exceptional circumstances where the Chief Executive or Director of Finance decides that formal tendering procedures would not be practicable or the estimated expenditure or income would not warrant formal tendering procedures, and the circumstances are detailed in an appropriate Trust record;
- e) where the requirement is covered by an existing contract;
- f) where Purchasing and Supply Agency (PASA) or successor bodies or similar bodies agreements are in place; i.e. another organisation has set up a local or national framework within which the Trust is legally entitled to procure under;
- g) where a consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members;
- h) where the timescale genuinely precludes competitive tendering but failure to plan the work properly would not be regarded as a justification for a single tender;
- i) where specialist expertise is required and is available from only one source;
- j) when the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;
- k) there is a clear benefit to be gained from maintaining continuity with an earlier project. However in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering;
- l) for the provision of legal advice and services providing that any legal firm or partnership commissioned by the Trust is regulated by the Law Society for England and Wales for the

conduct of their business (or by the Bar Council for England and Wales in relation to the obtaining of Counsel's opinion) and are generally recognised as having sufficient expertise in the area of work for which they are commissioned;

The Director of Finance will ensure that any fees paid are reasonable and within commonly accepted rates for the costing of such work;

Where allowed and provided for in the Capital Investment Manual.

- m) where the specific and personal needs of a client in Health and Social Care cannot be met by general tendering processes.

The waiving of competitive tendering procedures should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.

Where it is decided that competitive tendering is not applicable and should be waived, the fact of the waiver and the reasons should be documented and recorded in an appropriate Trust record and reported by the Chief Executive to the Board of Directors.

8.4.6 Fair and Adequate Competition

Except where Standing Financial Instruction No. 8.4.3 and 8.7 applies, the Trust shall ensure that invitations to tender are sent to a sufficient number of firms/individuals to provide fair and adequate competition as appropriate, and where possible no less than three firms/individuals, having regard to their capacity to supply the goods or materials or to undertake the services or works required.

8.4.7 List of Approved Firms (Estates)

The Trust shall ensure that normally the firms/individuals invited to tender (and where appropriate, quote) are among those on approved lists compiled. Where in the opinion of the Director of Finance it is desirable to seek tenders from firms not on the approved lists, the reason shall be recorded in writing (see SFI 8.5.8 List of Approved Firms (Estates)).

8.4.8 Items which Subsequently Breach Thresholds after Original Approval

Items estimated to be below the limits set in this Standing Financial Instruction for which formal tendering procedures are not used which subsequently prove to have a value above such limits shall be reported to the Chief Executive or Director of Finance, be recorded in an appropriate

Trust record. This record will be reviewed by the Finance, Performance and Investment Committee half yearly.

8.5 Contracting/Tendering Procedure

8.5.1 Invitation to Tender

All invitations to tender shall state the date and time as being the latest time for the receipt of tenders.

All invitations to tender on a formal competitive basis shall state that no tender will be considered for acceptance unless submitted in either:

- a) a plain sealed package or envelope bearing a pre-printed label supplied by the Trust (or the word "tender" followed by the subject to which it relates) and the latest date and time for the receipt of such tender addressed to the Chief Executive or nominated Manager; or
- b) that tender envelopes/ packages shall not bear any names or marks indicating the sender. The use of courier/postal services must not identify the sender on the envelope or on any receipt so required by the deliverer.

Where e-tendering is used the supplier's response will be completed on-line and uploaded into a secure electronic mailbox until the opening time. Every tender for goods, materials, services (including consultancy services) or disposals shall embody such of the NHS Standard Contract Conditions as are applicable. Every tenderer must have given or give a written undertaking not to engage in collusive tendering or other restrictive practice.

Tenders will refer to the Trust policy on Bribery which is in line with the Bribery Act 2010.

Every tender for building and engineering works, except for maintenance work only where Estate code guidance shall be followed, shall embody or be in the terms of the current edition of the appropriate Joint Contracts Tribunal (JCT) or Department of the Environment (GC/Wks) standard forms of contract amended to comply with Concode. Alternatively, building and engineering works may be procured as part of the Department of Health Procure21 framework agreement under NEC Contract using the latest version. When the content of the works is primarily engineering, tenders shall embody or be in the terms of the General Conditions of Contract recommended by the Institutions of Mechanical Engineers and the Association of Consulting Engineers (Form A) or, in the case of civil engineering work, the General Conditions of Contract recommended by the Institution of Civil Engineers, the Association of Consulting Engineers and the Federation of Civil Engineering Contractors. These documents shall be modified and/or

amplified to accord with Department of Health guidance and, in minor respects, to cover special features of individual projects. Any other form of contract used for building and engineering works must have the written approval of the Director of Estates and Strategic Development.

8.5.2 Receipt, Safe Custody and Record of Formal Tenders

Formal competitive tenders shall be addressed to the Chief Executive.

The date and time of receipt of each tender shall be endorsed on the unopened tender envelope / package.

The Chief Executive shall designate an officer or officers, not from the originating department, to receive tenders on his behalf and to be responsible for their endorsement and safe custody until the time appointed for their opening, and for the records maintained in accordance with Section 8.5.3 (Opening Formal Tenders).

Where electronic tendering is used the tender documents will be stored in the electronic mailbox until the closing date and time. An audit trail within the mail box will record the date and time the offer documents are received.

8.5.3 Opening Tenders and Register of Tenders

As soon as practicable after the date and time stated as being the latest time for the receipt of tenders they shall be opened in the presence of two senior officers designated by the Chief Executive and not from the originating department.

Two Senior Officers are required to be present at the opening of tenders. Where electronic tendering is used the tender documents will be opened electronically by two independent procurement professionals or two Senior Officers.

The 'originating' Department will be taken to mean the Department sponsoring or commissioning the tender.

The involvement of Finance Directorate staff in the preparation of a tender proposal will not preclude the Director of Finance or any approved Senior Manager from the Finance Directorate from serving as one of the two senior managers to open tenders.

All Directors / Board members will be authorised to open tenders regardless of whether they are from the originating department provided that the other authorised person opening the tenders with them is not from the originating department.

The Trust's Company Secretary will count as a Senior Officer for the purposes of opening tenders.

Every tender received shall be marked with the date of opening and initialled by those present at the opening. Where electronic tendering is used the details of the persons opening the documents will be recorded together with the date and time of the document opening.

A register shall be maintained by the Chief Executive, or a person authorised by him, to show for each set of competitive tender invitations despatched:

- i). the name of all firms individuals invited;
- ii). the names of firms individuals from which tenders have been received;
- iii). the date and time the tenders were opened;
- iv). the persons present at the opening;
- v). the price shown on each tender; and
- vi). a note where price alterations have been made on the tender.

Each entry to this register shall be signed by those present.

A note shall be made in the register if any one tender price has had so many alterations that it cannot be readily read or understood.

Incomplete tenders, i.e. those from which information necessary for the adjudication of the tender is missing, and amended tenders i.e. those amended by the tenderer upon his own initiative either orally or in writing after the due time for receipt, but prior to the opening of other tenders, should be dealt with in the same way as late tenders. (Standing Financial Instruction No. 8.5.5 below)

Where an electronic tendering package is used all actions by both procurement staff and suppliers are recorded within the system audit reports.

8.5.4 Admissibility

If for any reason the designated officers are of the opinion that the tenders received are not strictly competitive the advice of the Director of Finance should be sought.

Where only one tender is sought and/or received, the Chief Executive or Director of Finance shall, as far practicable, ensure that the price to be paid is fair and reasonable and will ensure value for money for the Trust.

For TP where the expenditure is maintaining or improving manufacturing capability, TP Managing Director can approve up to £25k.

8.5.5 Late Tenders

Tenders received after the due time and date, but prior to the opening of the other tenders, may be considered only if the Chief Executive or his nominated officer decides that there are exceptional circumstances i.e. despatched in good time but delayed through no fault of the tenderer.

Only in the most exceptional circumstances will a tender be considered which is received after the opening of the other tenders and only then if the tenders that have been duly opened have not left the custody of the Chief Executive or his nominated officer or if the process of evaluation and adjudication has not started.

While decisions as to the admissibility of late, incomplete or amended tenders are under consideration, the tender documents shall be kept strictly confidential, recorded, and held in safe custody by the Chief Executive or his nominated officer. The same procedure will apply where a e-tendering is used.

8.5.6 Acceptance of Formal Tenders

Any discussions with a tenderer which are deemed necessary to clarify technical aspects of his tender before the award of a contract will not disqualify the tender.

Where examination of tenders reveals errors which would affect the tender figure, the tenderer is to be given details of such errors and afforded the opportunity of confirming or withdrawing his offer.

Where only one tender/quotation is received the Chief Executive/ Director of Finance shall, as far as practicable, ensure that the price to be paid is fair and reasonable.

Where the form of contract includes a fluctuation clause all applications for price variations must be submitted in writing by the tenderer and shall be approved by the Chief Executive or nominated officer.

The lowest tender, if payment is to be made by the Trust, or the highest, if payment is to be received by the Trust, shall be accepted unless there are good and sufficient reasons to the contrary. Such reasons shall be set out in either the contract file, or other appropriate record.

It is accepted that for professional services such as management consultancy, the lowest price does not always represent the best value for money. Other factors affecting the success of a project include:

- a) experience and qualifications of team members;

- b) understanding of client's needs;
- c) feasibility and credibility of proposed approach; and
- d) ability to complete the project on time, and /or
- e) factors disclosed in the Tender documentation or advert.

Where other factors are taken into account in selecting a tenderer, these must be clearly recorded and documented in the contract file, and the reason(s) for not accepting the lowest tender clearly stated.

No tender shall be accepted which will commit expenditure in excess of that which has been allocated by the Trust and which is not in accordance with these Instructions except with the authorisation of the Chief Executive or Director of Finance.

The use of these procedures must demonstrate that the award of the contract achieved best value for money.

All tenders should be treated as confidential and should be retained for inspection.

8.5.7 Tender Reports to the Board of Directors

Reports to the Board of Directors will be made on an exceptional circumstance basis only.

8.5.8 List of Approved Firms (Estates)

Responsibility for Maintaining List

A manager nominated by the Chief Executive shall on behalf of the Trust maintain lists of approved firms from who tenders and quotations may be invited. These shall be kept under review. The lists shall include all firms who have applied for permission to tender and as to whose technical and financial competence the Trust is satisfied. All suppliers must be made aware of the Trust's terms and conditions of contract.

Building and Engineering Construction Works

Invitations to tender shall be made only to firms included on the approved list of tenderers compiled in accordance with this Instruction or on the separate maintenance lists compiled in accordance with Estmancode guidance (Health Notice HN(78)147).

Firms included on the approved list of tenderers shall ensure that when engaging, training, promoting or dismissing employees or in any conditions of employment, shall not discriminate against any person

because of colour, race, ethnic or national origins, religion or sex, or Equality and Diversity guidance or legislation, and will comply with the provisions of the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Race Relations Act 1976, and the Disabled Persons (Employment) Act 1944 and any amending and/or related legislation.

Firms shall conform at least with the requirements of the Health and Safety at Work Act and any amending and/or other related legislation concerned with the health, safety and welfare of workers and other persons, and to any relevant British Standard Code of Practice issued by the British Standard Institution. Firms must provide to the appropriate manager a copy of its safety policy and evidence of the safety of plant and equipment, when requested.

Financial Standing and Technical Competence of Contractors

The Director of Finance/ Managing Director TP may make or institute any enquiries he deems appropriate concerning the financial standing and financial suitability of approved contractors. The Director with lead responsibility for clinical governance will similarly make such enquiries as is felt appropriate to be satisfied as to their technical / medical competence.

8.5.9 Exceptions to using Approved Contractors

For contracts less than £100,000 if the Director of Estates and Strategic Development decides that it is impractical to use a potential contractor from the list of approved firms/individuals (for example where specialist services or skills are required and there are insufficient suitable potential contractors on the list), or where a list for whatever reason has not been prepared, the Director of Estates and Strategic Development should ensure that appropriate checks are carried out as to the technical and financial capability of those firms that are invited to tender or quote.

For Contracts over £100,000 the Chief Executive or the Director of Finance or the Director with lead responsibility for clinical governance decides that it is impractical to use a potential contractor from the list of approved firms/individuals (for example where specialist services or skills are required and there are insufficient suitable potential contractors on the list), or where a list for whatever reason has not been prepared, the Director of Estates and Strategic Development should ensure that appropriate checks are carried out as to the technical and financial capability of those firms that are invited to tender or quote.

An appropriate record in the contract file should be made of the reasons for inviting a tender or quote other than from an approved list.

8.6 Quotations: Competitive and Non-Competitive

8.6.1 General Position on Quotations

Written quotations are required where formal tendering procedures are waived and where the intended expenditure or income exceeds, or is reasonably expected to exceed £5,000 (exclusive of VAT) but not exceed £50,000 (exclusive of VAT).

Where the intended expenditure or income does not or is reasonably expected not to exceed £5000 (exclusive of VAT), two verbal quotations should be obtained and a note held on file in respect to each verbal quotation (see SFI 8.1.1).

Where critical repairs or replacement goods are required out of normal office hours officers have delegated authority to ensure that services are maintained and to report their actions on to the on call manager, the requirements of quotations and tenders will not apply.

8.6.2 Competitive Quotations

Quotations shall be obtained from at least 3 firms/individuals based on specifications or terms of reference prepared by, or on behalf of, the Trust.

Quotations shall be in writing, unless the Chief Executive or his nominated officers determine that it is impractical to do so, in which case quotations may be obtained by telephone. Confirmation of telephone quotation shall be obtained as soon as possible and the reasons why the telephone quotation was obtained shall be set out in a permanent record.

All quotations shall be treated as confidential and shall be retained for inspection.

The Chief Executive or his nominated officer shall evaluate the quotations and select the one which gives the best value for money. If this is not the lowest then this fact and the reasons why the lowest quotation was not chosen shall be in a permanent record.

8.6.3 Non-Competitive Quotations

Non-competitive quotations in writing may be obtained for the following purposes:

- a) the supply of proprietary or other goods of a special character and the rendering of services of a special character, for which it is not, in the opinion of the responsible officer, possible or desirable to obtain competitive quotations;
- b) the supply of goods or manufactured articles of any kind which are required quickly and are not obtainable under existing contracts;

- c) miscellaneous services, supplies and disposals; and
- d) where the goods or services are for building and engineering maintenance the responsible Estates Manager must certify that the first two conditions of this SFI (i.e. (a) and (b) above) apply.
- e) when approved by the person responsible for adult social care for the provision of specialist or personal care services for individual clients where individual circumstances make quotations impractical.

8.6.4 Quotations to be within Financial Limits

No quotation shall be accepted which will commit expenditure in excess of that which has been allocated by the Trust and which is not in accordance with Standing Financial Instructions except with the authorisation of either the Chief Executive or Director of Finance.

8.7 Instances Where Formal Competitive Tendering or Competitive Quotation is not required

Where competitive tendering or a competitive quotation is not required the Trust shall adopt one of the following alternatives:

- a) the Trust shall use the NHS Supply Chain or procurement function for all goods and services unless the Chief Executive or nominated officers deem it inappropriate. The decision to use alternative sources must be documented.
- b) if the Trust does not use the NHS Supply Chain - Where tenders or quotations are not required, because expenditure is below £5,000, the Trust shall procure goods and services in accordance with procurement procedures approved by the Trust.
- c) where the person responsible for adult social care decides the needs of the individual client are taken into account when deciding on individual care packages, subject to the funding package being agreed before the decision is made.

8.8 Private Finance for Capital Procurement (see overlap with SFI No 12)

The Trust may market test for PFI (Private Finance Initiative funding) when considering a capital procurement of more than £20m that can be procured using PFI. When the Board of Directors proposes, or is required, to use finance provided by the private sector the following shall apply:

- a) the Chief Executive or Director of Finance shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector;

- b) the proposal must be specifically agreed by the Board of Directors; and
- c) the selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

8.9 Compliance Requirements for all Contracts

The Board of Directors may only enter into contracts on behalf of the Trust and shall comply with:

- a) the Trust's Standing Orders;
- b) these Standing Financial Instructions;
- c) EU Directives and other statutory provisions;
- d) any relevant directions including the Capital Investment Manual, Estatecode and guidance on the Procurement and Management of Consultants;
- e) such of the NHS Standard Contract Conditions as are applicable;
- f) contracts with Foundation Trusts must be in a form compliant with appropriate NHS guidance;
- g) where appropriate contracts shall be in or embody the same terms and conditions of contract as was the basis on which tenders or quotations were invited; and
- h) in all contracts made by the Trust, the Board of Directors shall endeavour to obtain best value for money by use of all systems in place. The Chief Executive shall nominate an officer who shall oversee and manage each contract on behalf of the Trust.

8.10 Personnel and Agency or Temporary Staff Contracts

The Chief Executive shall nominate officers with delegated authority to enter into contracts of employment, regarding staff, agency staff or temporary staff service contracts.

In respect of Capital schemes the selection of architects, quantity surveyors, consultant engineers and other professional advisors within EU regulations is delegated to the Director of Estates and Commercial Development or their nominated officer.

8.11 Contracts for Purchase of Health or Care Services

8.11.1 The Trust will enter into legally binding contracts for the provision of healthcare services with commissioners in accordance with a form of contract as approved by the Director of Finance.

8.11.2 Such contracts should be negotiated and signed off before the 1st April in any financial year to which they may relate.

8.11.3 The Trust may also enter into contracts for the provision of goods or services, in accordance with the Trust's Licence, with other health service bodies or other organisations as appropriate. Such services should be priced to ensure that the Trust fully recovers all costs involved in the provision of such services and also makes an appropriate contribution towards the Trust's overhead costs.

8.11.4 Authority to sign such contracts on behalf of the Trust will be limited to the Chief Executive or Director of Finance for contracts over £100,000 Or Deputy Director of Finance for schemes under £100,000.

8.12 Disposals (See overlap with SFI No. 14)

Competitive tendering or quotation procedures shall not apply to the disposal of:

- a) any matter in respect of which a fair price can be obtained only by negotiation or sale by auction as determined (or pre-determined in a reserve) by the Chief Executive or his nominated officer;
- b) obsolete or condemned articles and stores, which may be disposed of in accordance with the supplies policy of the Trust;
- c) items to be disposed of with an estimated sale value of less than £1,000 (exclusive of VAT), this figure to be reviewed annually;
- d) items arising from works of construction, demolition or site clearance, which shall be dealt with in accordance with the relevant contract; and
- e) land or buildings concerning which Department of Health guidance has been issued but subject to compliance with such guidance.

8.13 In-House Services

8.13.1 The Chief Executive shall be responsible for ensuring that best value for money can be demonstrated for all services provided on an in-house basis. The Trust may also determine from time to time that in-house services should be market tested by competitive tendering.

8.13.2 In all cases where the Board of Directors determines that in-house services shall be subject to competitive tendering the following groups shall be set up:

- a) Specification group, comprising the Chief Executive or nominated officer/s and specialist;
- b) In-house tender group, comprising a nominee of the Chief Executive and technical support; and
- c) Evaluation team, comprising normally a specialist officer, a supplies officer and a Director of Finance representative. For services having a likely annual expenditure exceeding £100,000, a non-executive member shall be a member of the evaluation team.

8.13.3 All groups shall work independently of each other and individual officers may be a member of more than one group but no member of the in-house tender group may participate in the evaluation of tenders.

8.13.4 The evaluation team shall make recommendations to the Board of Directors.

8.13.5 The Chief Executive shall nominate an officer to oversee and manage the contract on behalf of the Trust.

8.14 Applicability of SFIs on Tendering and Contracting to Funds held in Trust (see overlap with SFI No. 17)

These Instructions shall not only apply to expenditure from Exchequer funds but also to works, services and goods purchased from the Trust's trust funds and private resources.

9. TERMS OF SERVICE, ALLOWANCES AND PAYMENT OF MEMBERS OF THE BOARD OF DIRECTORS AND EXECUTIVE COMMITTEE AND EMPLOYEES

9.1 Remuneration and Terms of Service (see overlap with SO No. 4)

9.1.1 In accordance with Standing Orders the Board of Directors shall establish an Executive Nominations and Remuneration Committee, with clearly defined terms of reference, specifying which posts fall within its area of

responsibility, its composition, and the arrangements for reporting. (See NHS guidance contained in the Higgs report).

9.1.2 The Committee will:

- a) advise the Board of Directors about appropriate remuneration and terms of service for the Chief Executive and other Executive Directors (and other senior employees), including:
 - i) all aspects of salary (including any performance-related elements/bonuses);
 - ii) provisions for other benefits, including pensions and cars; and
 - iii) arrangements for termination of employment and other contractual terms.
- b) make such recommendations to the Board of Directors on the remuneration and terms of service of Executive Directors (and other senior employees) to ensure they are fairly rewarded for their individual contribution to the Trust, having proper regard to the Trust circumstances and performance and to the provisions of any national arrangements for such staff where appropriate;
- c) monitor and evaluate the performance of individual Executive Directors (and other senior employees); and
- d) advise on and oversee appropriate contractual arrangements for such staff including the proper calculation and scrutiny of termination payments taking account of such national guidance as is appropriate.

9.1.3 The Committee shall report in writing to the Board of Directors the basis for its recommendations. The Board of Directors shall use the report as the basis for their decisions, but remain accountable for taking decisions on the remuneration and terms of service of Executive Directors. Minutes of the Board of Directors' meetings must record such decisions.

9.1.4 The Board of Directors will after due consideration and amendment if appropriate, approve proposals presented by the Chief Executive for setting of remuneration and conditions of service for those employees not covered by the Committee.

9.1.5 The Trust will pay allowances to the Chairman and non-executive members of the Board of Directors in accordance with rates approved by the Council of Governors.

9.2 Funded Establishment

9.2.1 The workforce plans incorporated within the annual budget will form the Trust's funded establishment.

9.2.2 The funded establishment of any department may not be increased in terms of spend without the approval of the Chief Executive or Director of Finance or in the case of the TP the TP Board.

9.3 Staff Appointments

9.3.1 No officer or Member of the Trust or employee may engage, re-engage, or re-grade employees, either on a permanent or temporary nature, or hire agency staff, or agree to changes in any aspect of remuneration:

- a) unless authorised to do so in the scheme of delegation ; and
- b) within the limit of his/her approved budget and funded establishment.

9.3.2 With the exception of the Chairman, other Non-Executive Directors, Chief Executive and other Executive Directors the Executive Team will approve procedures as presented by the Director of Human Resources for the determination of commencing pay rates, condition of service, overtime, the use of bank/agency staff, annual leave, relocation expenses, grievance procedures, retirement, redundancy and dismissal for employees.

9.3.3 The delegation of authority for pay expenditure, remuneration and other entitlements which allows Trust officers to engage, re-engage, or re-grade employees, either on a permanent or temporary nature, or hire agency staff, or agree to changes in any respect of remuneration and other entitlements and condition of service are detailed within the scheme of delegation.

9.4 Processing of Payroll

9.4.1 The Director of Finance and Director of Human Resources are jointly responsible for:

- a) specifying timetables for submission of properly authorised time records and other notifications;
- b) making payment on agreed dates in conjunction with the Director of Human Resources having regard to the general rule not to make payments in advance;
- c) agreeing the method of payment; and
- d) approving the form of all the records, pay sheets, other pay records and notification together with certification requirements.

- 9.4.2 The Director of Human Resources shall be responsible for the final determination of pay including the verification that rates of pay and relevant conditions of service are in accordance with current agreements and the proper compilation of the payroll.
- 9.4.3 The Director of Finance in conjunction with the Director of Human Resources will issue instructions regarding:
- a) verification and documentation of data;
 - b) the timetable for receipt and preparation of payroll data and the payment of employees;
 - c) maintenance of subsidiary records for superannuation, income tax, social security and other authorised deductions from pay;
 - d) security and confidentiality of payroll information;
 - e) checks to be applied to completed payroll before and after payment;
 - f) authority to release payroll data under the provisions of the Data Protection Act;
 - g) methods of payment available to various categories of employee;
 - h) procedures for payment by cheque, bank credit, or cash to employees;
 - i) procedures for the recall of cheques and bank credits;
 - j) pay advances and their recovery;
 - k) maintenance of regular and independent reconciliation of pay control accounts;
 - l) separation of duties of preparing records and handling cash; and
 - m) a system to ensure the recovery from leavers of sums of money and property due by them to the Trust.
- 9.4.4 Appropriately nominated managers have delegated responsibility for:
- a) submitting time records, and other notifications in accordance with agreed timetables;
 - b) completing time records and other notifications in accordance with the Director of Finance 's instructions and in the form prescribed by the Director of Finance;

- c) submitting termination forms in the prescribed form immediately upon knowing the effective date of an employee's resignation, termination or retirement; (where an employee fails to report for duty in circumstances that suggest they have left without notice, the Director of Human Resources must be informed immediately); and
- d) submitting signed Change of Circumstances forms to the Director of Human Resources immediately upon the effective date of any change in state of employment or personal circumstances of an employee being known.

This will include:

- base;
 - department;
 - expenditure code;
 - budget;
 - grade;
 - contract hours;
 - residential / non-residential status;
 - marital status;
 - address; and
 - beverages / meals.
- e) Regardless of the arrangements for providing the payroll service, the Director of Finance shall ensure that the chosen method is supported by appropriate (contracted) terms and conditions, adequate internal controls and audit review procedures and that suitable arrangements are made for the collection of payroll deductions and payment of these to appropriate bodies.
 - f) All employees shall be paid monthly by bank credit transfer unless otherwise agreed by the Director of Finance.

9.5 Contract of Employment

9.5.1 The Board of Directors shall delegate responsibility to a manager for:

- a) ensuring that all employees are issued with a Contract of Employment in a form approved by the Board of Directors and which complies with employment legislation; and
- b) dealing with variations to, or termination of, contracts of employment.

10. NON-PAY EXPENDITURE

10.1 Delegation of Authority

- 10.1.1 The Board of Directors will approve the level of non-pay expenditure on an annual basis and the Chief Executive will determine the level of delegation to budget managers.
- 10.1.2 Budget Holders so delegated, and others who the Budget Holders shall formally nominate shall be authorised to approve requisitions, invoices and petty cash, subject to appropriate segregation of duties and subject to the scope and limit(s) of their budget(s).
- 10.1.3 The Chief Executive shall set out procedures on the seeking of professional advice regarding the supply of goods and services.
- 10.1.4 The delegated authority for non-pay revenue and capital expenditure, requisitioning, ordering and payments for goods and services are set out in the Scheme of Delegation.

Determining, and setting out, the level of delegation of non-pay revenue and capital expenditure / Requisitioning / Ordering / Payments of goods and Services for budget managers.

- a) Requisitioning of non-pay revenue governed by procurement systems and the authorisation of invoices within approved budget. Where invoices are billed at a Trust wide level these will be authorised for payment by the Director of Finance, Deputy Director of Finance or Assistant Director of Finance. Items included in this arrangement include NHS Supply Chain, Telephone Invoices, Printing Invoices and Purchasing Cards.

For Invoices and procurement systems, authority is delegated at the following levels:

- Chief Executive – Unlimited
- Director of Finance (and Deputy DoF in DoF's absence) - Unlimited
- Board Directors and Divisional Managers - £100k
- Budget Holders - £10k

For Adult Social Care authorisation of care packages within the budget: -

With regard to the awarding of individual service contracts for the provision of Independent Sector, regard must be taken to the needs of the client as well as the anticipated cost of the contract. As such all contracts with a weekly charge of: -

- a) to £650 should be agreed by a member of the Zone Management Teams,

- b) £651 to £1,000 should be agreed by the Zone Manager'
- c) Over £1,000.00 per week - Assistant Director for Newton Abbot Locality and Community Hospitals Or –Assistant Director for Southern Devon Health and Social Care or Assistant Director Operational Change. An Authorised and Signed panel document – this can be by any named person as long as it is signed and approved.
- n) Over £2,000.00 per week – DGM Community or Deputy Chief Operating Officer or, Chief Operating Officer or Director of Finance or Chief Executive

*Where patients are placed in high secure establishments by order of a Court Judge, the Director of Finance will be informed of the cost implications, but this will not require further authorisation.

For the Independent Sector the Finance Team will match approved care packages to invoices and pay on them according to the following delegation:

Finance Officers up to £5k

Finance Manager up to £25k

Senior Finance Manager / Senior Management accountant up to £100K

Assistant Director of Finance or above in excess of £100K

TP delegated items for bill of materials budget up to £25k. TP Managing Director up to £50k. TP Board up to £100k. TP non bill of materials budget holder up to £2,500.

- b) Approval of capital/IT schemes, projects and expenditure

Schemes subject to Board of Directors approval of the annual capital programme, thereafter, new schemes submitted for approval within the year subject to the following approval

Chief Executive or Director of Finance – up to £50K

Executive Directors Group (in exceptional circumstances) up to – £250k
TP Managing Director to approve TP schemes up to £50k and within Board of Directors controlled limit for TP for the year.

Senior Business Management Team – up to £250k

Finance, Performance and Investment Committee – between £250k and £500k (for Torbay Pharmaceuticals(TP) the TP Board see TP Board Terms of Reference for further detail)

Board of Directors Approval – greater than £500k

Any new schemes or existing scheme that mean that the original overall capital programme budget approved by the Board of Directors would be exceeded, irrespective of value, will require Board of Directors approval. Except where this relates to amendments to the hospital refurbishment programme where the approval process agreed by the Finance, Performance and Investment Committee will apply.

All medical capital equipment purchases should be supported by a duly authorised CA1. The CA1 should also be authorised by the Director of Finance, Deputy Director of Finance or Assistant Director of Finance. CA1 forms are not required for Health Informatics Services managed IT schemes, vehicle purchasing or where the Director of Finance, Deputy Director of Finance or Assistant Director of Finance determines otherwise.

All of the following except (e) are subject to the limits specified in (a) and (b) above.

- c) Requisitioning of non-pay expenditure for which no specific budget has been approved.
Chief Executive or Director of Finance
- d) Orders exceeding 12 month period non-maintenance contracts
Chief Executive or Director of Finance
- e) Orders exceeding 12 month period – maintenance contracts (single supplier)
Maintenance Contracts Manager or Managing Director of TP – up to £100k
Chief Executive or Director of Finance – over £100k
- f) All contracts for goods and services and subsequent variations to contracts
Chief Executive or Director of Finance (or Deputy Director of Finance / Head of Contracts up to £100K), TP Managing Director revenue within delegated budget
- g) Approving all contracts for patient services
Chief Executive or Director of Finance (or Deputy Director of Finance / Head of Contracts up to £100K)
- h) Granting and Termination of leases
Chief Executive or Director of Finance (or Deputy Director of Finance).

10.1.5 The disbursement of Petty Cash is delegated in the following way.

- a) Expenditure up to £50 per item - Petty Cash Holder on production of receipt and completed petty cash voucher.
- b) Expenditure up to £100 per item - Petty Cash Holder on production of receipt and completed petty cash voucher and **PRIOR** approval of Assistant Director of Finance (Corporate Services)
- c) Petty Cash Holder on production of PAT 1 form (two staff to sign)
 - i) Reimbursement of patients monies:
 - ii) Cheque Request to Assistant Director of Finance (Corporate Services)

10.1.6 The financial management of the Court of Protection clients is delegated in the following way

One-off payments	Staff level
< £500	Finance Assistant
< £5,000	Finance Manager
< £25,000	Senior Finance Manager
< £100,000	Senior Finance Manager & Senior Management Accountant
Over £100,000	Assistant Director of Finance, Deputy Director of Finance or Director of Finance.

Per year (on-going payments)	Staff level
< £5,000	Finance Assistant
< £10,000	Finance Manager
< £25,000	Senior Finance Manager
< £100,000	Senior Finance Manager & Senior Management Accountant
Over £100,000	Assistant Director of Finance, Deputy Director of Finance or Director of Finance

House Sale	Staff level
< £250,000	Finance Manager and Senior Finance Manager
< £500,000	Senior Finance Manager and Senior Management Accountant
Over £500,000	Senior Management Accountant and Assistant Director of Finance, Deputy Director of Finance or Director of Finance

10.2 Choice, Requisitioning, Ordering, Receipt and Payment for Goods and Services (see overlap with SFI No 8)

10.2.1 Responsibilities for effective purchasing, including obtaining tenders and Quotations for goods and services required is delegated to the Procurement & Logistics Department with the exception of:

- a) Works - responsibility of the Director of Estates and Commercial Development;
- b) Drugs - responsibility of Trust Pharmaceutical Officer/ TP Managing Director (The Head of Procurement should provide advice to the TP buying team and sign off the range of products and services delegated to them); and
- c) Adult Social Care to the Associate Director of Adult Social Care who will seek the support of the Head of Procurement.

10.2.2 The Procurement & Logistics Department may use contracts that have been agreed by the Purchasing & Supplies Agency or similar bodies or the Peninsula Purchasing & Supply Alliance i.e. where another organisation has set up a local or national framework within which the Trust is legally entitled to procure under.

10.2.3 The Procurement & Logistics Department shall always obtain best value for money for the Trust. The requisitioner in choosing the item to be supplied shall ensure correct specification and fitness for the particular purpose intended and shall only requisition those goods and services for which they have delegated responsibility. The requisitioner shall seek the advice of the Head of Procurement and where this advice is not acceptable to the requisitioner, the Director of Finance and/or Chief Executive shall be consulted for approval.

10.2.4 System of Payment and Payment Verification

The Director of Finance shall be responsible for the prompt payment of accounts and claims after prompt and effective goods receipting. Payment of contract invoices shall be in accordance with contract terms, or otherwise, in accordance with national guidance.

10.2.5 The Director of Finance will:

- a) Advise the Board of Directors regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; and, once approved, the thresholds should be incorporated in Standing Financial Instructions and regularly reviewed;
- b) prepare procedural instructions* within the Scheme of Delegation on the obtaining of goods, works and services incorporating the thresholds; and
- c) be responsible for the prompt payment of all properly authorised accounts and claims;

* Procedural Instructions- "Requisition of Supplies and Services" are contained within Section 7 of the Written Financial Procedures.

- d) be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable.** The system shall provide for:
 - i) A list of the electronic system of ordering user profiles directors/employees (including specimens of their signatures/details of their computer privileges) authorised to certify invoices, requisition authorise and goods receipt;

- ii) Certification that:
 - goods have been duly received, examined and are in accordance with specification and the prices are correct;
 - work done or services rendered have been satisfactorily carried out in accordance with the order, and, where applicable, the materials used are of the requisite standard and the charges are correct;
 - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for the use of vehicles, plant and machinery have been examined;
 - where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
 - the account is arithmetically correct;
 - the account is in order for payment.
- iii) A timetable and system for submission to the Director of Finance of accounts for payment; provision shall be made for the early submission of accounts subject to cash discounts or otherwise requiring early payment; and
- iv) Instructions to employees regarding the handling and payment of accounts within the Finance Department.**
- e) be responsible for ensuring that payment for goods and services is only made once the goods and services are received, (except as stated in 10.2.6).

** The requirements of the "Payment of Accounts System" are contained within Section 2 of the Written Financial Procedures.

10.2.6 Prepayments

Prepayments are only permitted where exceptional circumstances apply as approved by the Director of Finance. In such instances:

- a) the appropriate Director must provide, in the form of a written report, a case setting out all relevant circumstances of the purchase. The report must set out the effects on the Trust if the supplier is at some

time during the course of the prepayment agreement unable to meet his commitments;

- b) the Director of Finance will need to be satisfied with the proposed arrangements before contractual arrangements proceed (taking into account the EU public procurement rules where the contract is above the stipulated financial threshold);
- c) the budget holder is responsible for ensuring that all items due under a prepayment contract are received and he/she must immediately inform the appropriate Director or Chief Executive if problems are encountered; and
- d) Prepayments are only permitted where the financial advantages outweigh the disadvantages
- e) Prepayments up to £5k can be approved by the TP Managing Director.

10.2.7 Official Orders

Official Orders must:

- a) be consecutively numbered;
- b) be in a form approved by and a copy available for the Director of Finance;
- c) state the Trust terms and conditions of trade; and
- d) only be issued to, and used by, those duly authorised by the Chief Executive. Lists of authorised officers shall be maintained and a copy of each list supplied to the Director of Finance.

Verbal orders may be made by authorised credit card holders, which they will check to subsequent statements.

10.2.8 Duties of Managers and Officers

Managers must ensure that they comply fully with the guidance and limits specified in the Scheme of Delegation and by the Director of Finance and that:

- a) all contracts, leases, tenancy agreements and other commitments which may result in a liability are notified to the Director of Finance in advance of any commitment being made;
- b) contracts above specified threshold are advertised and awarded in accordance with EU rules on public procurement;

- c) where consultancy advice is being obtained, the procurement of such skills must be in accordance with guidance issued by the Department of Health see section 8;
- d) no order shall be issued for any item or items to any firm which has made an offer of gifts, reward or benefit to Directors or employees, other than:
 - i) isolated gifts of a trivial character or inexpensive desk gifts, such as calendars;
 - ii) conventional hospitality, such as lunches in the course of working visits that would be reasonably reciprocated by the NHS;

(This provision needs to be read in conjunction with Standing Order No. 7 and the principles outlined in the national guidance contained in HSG 93(5) "Standards of Business Conduct for NHS Staff");

- iii) the Chief Executive in conjunction with the Director of Finance and assisted by the Director of Human Resources, where appropriate shall ensure that the requirements of the NHS Management Executive Guidelines "Standards of Business Conduct for NHS Staff" HSG (93)5, are fully implemented*. In particular:-
 - ensuring that guidelines and procedures are annually brought to the attention of all staff and are effectively implemented;
 - local conflict of interest policies are developed;
 - regularly review such guidelines and procedures to ensure that they are kept up to date;

Specifically with regard to receiving hospitality a Hospitality Register needs to be kept by the Trust. Employees, for both individual and collective hospitality, are required to make a declaration in the Trust's Hospitality Register for items in excess of £25 per item received.

- e) no requisition/order is placed for any item or items for which there is no budget provision unless authorised by the Director of Finance on behalf of the Chief Executive;
- f) all goods, services, or works are ordered on an official order/requisition except works and services which are executed in

accordance with a contract, purchases from petty cash and other variation agreed by the Director of Finance;

- g) verbal orders must only be issued very exceptionally except in the case of corporate credit or payment cards (see Written Financial Procedure Section 7)- by an employee designated by the Chief Executive and only in cases of emergency or urgent necessity. These must be confirmed by an official order and clearly marked "Confirmation Order";
- h) orders are not split or otherwise placed in a manner devised so as to avoid the financial thresholds;
- i) goods (e.g. Medical Equipment) are not taken on trial or loan in circumstances that could commit the Trust to a future uncompetitive purchase and have not been subject to trial indemnification arrangements arranged by the Purchasing & Supplies Department; in particular, any trial or loan arrangements should define the time period of trial/loan, include an assessment of the trial documented by the Purchasing & Supplies Department, ensure compliance with Health and Safety obligations, include notification prospectively to the insurance/litigation department and under no circumstances may an oral commitment be given prior to the assessment by the Purchasing & Supplies Department;
- j) changes to the list of directors/employees allowed to authorise an order or an invoice or receipt goods are notified to the Director of Finance;
- k) purchases from petty cash are restricted in value and by type of purchase in accordance with instructions issued by the Director of Finance; and
- l) petty cash records are maintained in a form as determined by the Director of Finance.

10.2.9 Chief Executive and Director of Finance must ensure that the Trust Standing Orders are compatible with the requirements issued by the Department of Health in respect of building and engineering contracts (CONCODE) and land and property transactions (ESTATECODE). The technical audit of these contracts shall be the responsibility of the relevant Director. The Director of Finance shall ensure that the arrangements for financial control and financial audit of building and engineering contracts and property transactions comply with the guidance contained within these codes.

10.2.10 In the case of contracts for building or engineering works which require payment to be made on account during progress of the work, the Director of Finance shall make payment on receipt of a certificate from the

appropriate technical consultant or officer. Without prejudice to the responsibility of any consultant, or estates officer appointed to a particular building or engineering contract a contractors account shall be subjected to such financial examination by the Director of Finance and such general examination by the Director of Estates and Commercial Development as may be considered necessary before the person responsible to the Trust for the contract issues the final certificate.

10.2.11 Every contract for building and engineering works which exceeds the sum of £50,000 excluding VAT shall be executed under the common seal of the Trust.

10.2.12 All sealed bid tenders shall be addressed to the Chief Executive and received in his office.

* Employee expectations in relation to "Standards of Business Conduct" are contained within Standing Orders Appendix A.(A modified version will be approved by the TP Board to reflect the commercial nature of their business)

10.3 Joint Finance Arrangements with Local Authorities and Voluntary Bodies (see overlap with Standing Order No. 9.1)

10.3.1 Payments to local authorities and voluntary organisations made under the powers of section 28A of the NHS Act **shall** comply with procedures laid down by the Director of Finance which shall be in accordance with these Acts. (See overlap with Standing Order No. 9.1)

10.4 Torbay Pharmaceuticals Providing Hospitality

10.4.1 It is recognised that, for Torbay Pharmaceuticals to operate in a commercial sphere it will be necessary from time to time to offer client hospitality in line with industry norms.

10.4.2 Such hospitality could be provided at the discretion of the Managing Director and only with the prior approval of the Chairman of the Torbay Pharmaceuticals Board. On occasion, this type of expenditure may, for acceptable business reasons exceed that initially authorised. In such circumstances, the Managing Director must seek the retrospective approval of the Chairman of the Torbay Pharmaceuticals Board

10.4.3 Such hospitality should be reasonable and proportionate.

10.4.4 TP staff should be mindful of the continued need for the prudent use of public funds. The Association of the British Pharmaceutical Industry (ABPI) Code of Practice, clause 22, which relates to meetings, hospitality and sponsorship states that

'The cost of a meal (including drinks) provided by way of subsistence must not exceed £75 per person, excluding VAT and gratuities.'

11. EXTERNAL BORROWING AND INVESTMENTS

11.1.1 Management of Trust borrowing and investments is the principal purpose of the Finance, Performance and Investment Committee. The scope of the treasury function, treasury controls and activities are detailed within the Trust's Treasury Management Policy.

11.1.2 Key responsibilities for the management of Trust borrowings and investments are detailed as follows:

11.1.3 Board of Directors

- a) approve external funding arrangements and any new loans over £5m. Loan renewals/refinancing and new loans up to £5m need not be approved by the Board of Directors;
- b) approve the overall Treasury Management Policy; and
- c) the Board of Directors delegates responsibility for approval of the Trust's Treasury procedures, controls and detailed policies to the Finance, Performance and Investment Committee.

11.1.4 Finance, Performance and Investment Committee

- a) Approve the Trust's investment and borrowing strategy and policies in line with its strategy on risk;
- b) Approve the Trust's interest rate (and foreign exchange risk) management strategy and policies;
- c) Approve the relevant benchmarks for measuring performance;
- d) Review and monitor investment and borrowing policy and performance against the relevant benchmarks in respect of all funds;
- e) Ensure proper safeguards are in place for security of the Trust's funds;
- f) Monitor compliance with Treasury policies and procedures on investment/borrowing/interest rate/foreign exchange management in respect of limits, approved counterparties and types of investments/instruments;
- g) Approve external funding arrangements within delegated authority;

- h) Delegate responsibility for Treasury operations to the Trust Director of Finance. The Director of Finance will hold regular meetings with the Treasury Team to discuss issues and consider any points that should be brought to the attention of the Finance, Performance and Investment Committee; and
- i) Approve business cases up to £500k for both revenue and capital projects.

11.1.5 Director of Finance

- a) Ensure that the Trust Treasury Management activities are carried out in line with the policy.

11.1.6 Deputy Director of Finance

- a) Oversee the operational management and performance of the Treasury Function on a day to day basis; and
- b) Fulfil the role of the Trust Director of Finance in respect of the above in the absence of the Trust Director of Finance.

11.1.7 The Director of Finance will advise the Board of Directors concerning the Trust's ability to pay dividend on, and repay Public Dividend Capital (PDC) and any proposed new borrowing. The Director of Finance is also responsible for reporting periodically to the Board of Directors concerning the PDC debt and all loans and overdrafts.

11.1.8 The Board of Directors will agree the list of employees (including specimens of their signatures) who are authorised to make short term borrowings on behalf of the Trust. This must contain the Chief Executive and the Director of Finance.

11.1.9 The Director of Finance must prepare detailed procedural instructions concerning applications for loans and overdrafts and on the form of records to be maintained.

11.1.10 All short-term borrowings should be kept to the minimum period of time possible, consistent with the overall cashflow position, represent good value for money.

11.1.11 Any short-term borrowing must be with the authority of two members of an authorised panel, one of which must be the Chief Executive or the Director of Finance or Deputy Director of Finance or Assistant Director of Finance. The Board of Directors must be made aware of all short term borrowings at the next Board of Directors meeting.

11.1.12 All long-term borrowing must be consistent with the plans outlined in the current Annual Plan agreed by the Board of Directors.

11.2 Investments

- 11.2.1 Temporary cash surpluses must be held only in such public or private sector investments so as to conform to the guidance issued by NHS Improvement/Monitor and comply with the investment strategy and policy of the Trust.
- 11.2.2 The Director of Finance is responsible for advising the Board of Directors on investments and shall report periodically to the Board of Directors concerning the performance of investments held.
- 11.2.3 The Director of Finance will prepare and issue detailed procedural instructions on the operation of investment accounts and on the records to be maintained.

12. CAPITAL INVESTMENT, PRIVATE FINANCING, FIXED ASSET REGISTERS AND SECURITY OF ASSETS

12.1 Capital Investment

- 12.1.1 The Chief Executive:
- a) shall ensure that there is an adequate appraisal and approval process in place for determining capital expenditure priorities and the effect of each proposal upon business plans;
 - b) is responsible for the management of all stages of capital schemes via the responsible officers and for ensuring that schemes are delivered on time and to cost; and
 - c) shall ensure that the capital investment is not undertaken without the availability of resources to finance all revenue consequences, including capital charges.
- 12.1.2 For every capital expenditure proposal the Chief Executive shall ensure:
- a) that a business case (in line with the guidance contained within the Capital Investment Manual or most recent relevant guidance) is produced setting out:
 - i) an option appraisal of potential benefits compared with known costs to determine the option with the highest ratio of benefits to costs;
 - ii) appropriate project management and control arrangements; and
 - iii) the involvement of appropriate Trust personnel and external agencies.

- b) that the Director of Finance has certified professionally to the costs and revenue consequences detailed in the business case.

12.1.3 For capital schemes where the contracts stipulate stage payments, the Chief Executive via the Director of Estates and Commercial Development will issue procedures for their management, incorporating the recommendations of "Estatecode".

The Director of Finance shall assess on an annual basis the requirement for the operation of the construction industry tax deduction scheme in accordance with Inland Revenue guidance.

12.1.4 The Director of Finance shall issue procedures for the regular reporting of expenditure and commitment against authorised expenditure.

12.1.5 The approval of a capital programme shall not constitute approval for expenditure on any scheme.

The Chief Executive through the relevant committee shall issue to the Project Manager responsible for each scheme:

- a) specific authority to commit expenditure. The Trust requires that no variation order can be raised without the Project Manager's prior written permission when:
 - i) it increases the total contract figure to a sum above the authorised sum, or
 - ii) it has a net effect of expending in excess of £500.
- b) authority to proceed to tender;
- c) the acceptance of tenders shall conform with the Trust's procedures as set out in the Standing Orders.

The Chief Executive will issue a scheme of delegation for capital investment management in accordance with "Estatecode" guidance and the Trust Standing Orders.

12.1.6 The Director of Finance shall issue procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes.*

12.2 Private Finance (see overlap with SFI No. 8.10)

12.2.1 The Trust may test for PFI when considering capital procurement. When the Trust proposes to use finance which is to be provided other than through its allocations, the following procedures shall apply:

- a) The Director of Finance shall demonstrate that the use of private finance represent value for money and genuinely transfers risk to the private sector;
- b) The proposal must be specifically agreed by the Board of Directors; and
- c) Where the sum involved exceeds delegated limits, the business case must be referred for Treasury approval.

12.3 Asset Registers

- 12.3.1 The Chief Executive is responsible for ensuring that a system exists for the maintenance of registers of assets, taking account of the advice of the Director of Finance concerning the form of any register and the method of updating, and arranging for a sample physical check of assets against the asset register and property terrier, to be conducted once a year.
- 12.3.2 The Trust shall maintain an asset register recording fixed assets.
- 12.3.3 Additions to the fixed asset register must be clearly identified to an appropriate budget holder and be validated by reference to:
 - a) properly authorised and approved agreements, architect's certificates, supplier's invoices and other documentary evidence in respect of purchases from third parties;
 - b) stores, requisitions and wages records for own materials and labour including appropriate overheads; and
 - c) lease agreements in respect of assets held under a finance lease and capitalised.
- 12.3.4 Where capital assets are sold, scrapped, lost or otherwise disposed of, their value must be removed from the accounting records and each disposal must be validated by reference to authorisation documents and invoices (where appropriate).
- 12.3.5 The Director of Finance shall approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.
- 12.3.6 The value of each asset shall be depreciated using methods and rates as appropriate.
- 12.3.7 The Director of Finance of the Trust shall calculate and pay dividends to the Department of Health.

12.4 Security of Assets

- 12.4.1 The overall control of fixed assets is the responsibility of the Chief Executive who shall ensure that adequate security arrangements are in place.
- 12.4.2 Asset control procedures (including fixed assets, cash, cheques and negotiable instruments, and also including donated assets) must be approved by the Director of Finance. This procedure shall make provision for:*
- a) recording managerial responsibility for each asset;
 - b) identification of additions and disposals;
 - c) identification of all repairs and maintenance expenses;
 - d) physical security of assets;
 - e) periodic verification of the existence of, condition of, and title to, assets recorded;
 - f) identification and reporting of all costs associated with the retention of an asset; and
 - g) reporting, recording and safekeeping of cash, cheques, and negotiable instruments.
- 12.4.3 Items on the asset register shall be physically checked at least annually by budget holders and all discrepancies shall be notified in writing to the Director of Finance who may also undertake such other independent checks as he considers necessary.
- 12.4.4 Whilst each employee has a responsibility for the security of property of the Trust, it is the responsibility of directors and senior employees in all disciplines to apply such appropriate routine security practices in relation to NHS property as may be determined by the Board of Directors. Any breach of agreed security practices must be reported in accordance with instructions.
- 12.4.5 Any damage to the Trust premises, vehicles and equipment, or any loss of equipment, stores or supplies must be reported by directors and employees in accordance with the procedure for reporting losses.*
- 12.4.6 Where practical, assets should be marked as Trust property.

* "Procedural Instructions" for reporting losses are contained within Section 6 "Condemnations, Losses, Special Payments and Insurance Arrangements" of the Written Financial Procedures.

- * "Procedural Instructions" concerning "Capital Expenditure" are contained within Section 14 of the Trust Written Financial Procedure.
- * "Procedural Instructions" concerning security, checking and disposal of assets are contained within Section 22 "Security of Assets" and Section 14 "Capital Expenditure (for capital assets)" of the Written Financial Procedures.
- * "Procedural Instructions" relating to Information Technology are contained within documents entitled "Information Management & Technology Security Procedures" and "Information Technology Departmental Operating Scheme" which can be located on the Intranet site.

13. STORES AND RECEIPT OF GOODS

13.1 General Position

13.1.1 Stores, defined in terms of controlled stores and departmental stores (for immediate use) should be:

- a) kept to a minimum;
- b) subjected to annual stock take or a perpetual stock checking system; and
- c) valued at the lower of cost and net realisable value.

13.2 Control of Stores, Stocktaking, Condemnations and Disposal

13.2.1 Subject to the responsibility of the Director of Finance for the systems of control, overall responsibility for the control of stores shall be delegated to an employee by the Chief Executive. The day-to-day responsibility may be delegated by him to departmental employees and stores managers/keepers, subject to such delegation being entered in a record available to the Director of Finance. The control of Pharmaceutical stocks shall be the responsibility of a designated Pharmaceutical Officer; the control of fuel oil and coal of a designated estates manager.

13.2.2 The responsibility for security arrangements and the custody of keys for all stores and locations shall be clearly defined in writing by the designated manager/ Pharmaceutical Officer and agreed with the Director of Finance. Wherever practicable, stocks should be marked as health service property.

13.2.3 The Director of Finance shall set out procedures and systems to regulate the stores including records for receipt of goods, issues, and returns to stores, and losses.*

- 13.2.4 Stocktaking arrangements shall be agreed with the Director of Finance and there shall be a physical check covering all items in store at least once a year.
- 13.2.5 Where a complete system of stores control is not justified, alternative arrangements shall require the approval of the Director of Finance.
- 13.2.6 The designated Manager/Pharmaceutical Officer shall be responsible for a system approved by the Director of Finance for a review of slow moving and obsolete items and for condemnation, disposal, and replacement of all unserviceable articles. The designated Officer shall report to the Director of Finance any evidence of significant overstocking and of any negligence or malpractice (see also 14, "Condemnations, Losses and Special Payments"). Procedures for the disposal of obsolete stock shall follow the procedures set out for disposal of all surplus and obsolete goods.

13.3 Goods Supplied by NHS Supply Chain

- 13.3.1 For goods supplied via the NHS Supply Chain central warehouses, the Chief Executive shall identify those authorised to requisition and accept goods from the store. The authorised person shall check receipt against the delivery note before forwarding this to the Director of Finance.

14. DISPOSALS AND CONDEMNATIONS, LOSSES AND SPECIAL PAYMENTS

14.1 Disposal and Condemnations

14.1.1 Procedures

The Director of Finance shall prepare detailed procedures for the disposal of assets including condemnations, and ensure that these are notified to managers.*

The condemning and disposing of assets is delegated in the following way.

Figures quoted are inclusive of VAT.

Items obsolete, redundant, irreparable or cannot be repaired cost effectively.

Replacement Values.

Budget holder – up to £5,000.

Executive Director or Divisional General Manager or Deputy Director of Finance - £5,000 to £20,000.

Chief Executive or Director of Finance – above £20,000.

TP Board above £20k.

TP Managing Director £0 to £20k.

- 14.1.2 When it is decided to dispose of a Trust asset, the Head of Department or authorised deputy will determine and advise the Director of Finance of the estimated market value of the item, taking account of professional advice where appropriate.

Procedures for losses, write-off and compensation are delegated in the following way.

Figures quoted are inclusive of VAT.

- a) Losses of cash due to theft, fraud, overpayment of salaries, wages, fees and allowances and 'other' causes

Up to £5,000

Chief Executive or Director of Finance

Over £5,000

Board of Directors

- b) Fruitless payments (including abandoned capital schemes) up to £50,000

Chief Executive / Director of Finance (Joint Approval)

- c) Fruitless payments (including abandoned capital schemes) over £50,000

Board of Directors

- d) Bad debts and claims abandoned. Private patients, overseas visitors and others:

Up to £50,000

Chief Executive/ Director of Finance or their authorised Deputies
(Joint Approval)

Over £50,000

Board of Directors

In regard to Bad Debts arising from the provision of Social Care:

Up to £2,500 Senior Management Accountant and Senior Finance Officer (Independent Placements Finance Team)

Over £2,500 one from Director of Finance or Deputy Director of Finance and one from Senior Management Accountant or Senior Finance manager (Independent Placements Finance team)

- e) Damage to buildings, fittings, furniture and equipment and loss of equipment and property in stores and in use due to:

Culpable causes (e.g. fraud, theft, arson) or other up to £50,000

Chief Executive / Director of Finance (Joint Approval)

Over £50,000

Board of Directors

- f) Compensation payments made under legal obligation to a value of:

Up to £100,000 plus costs

Chief Executive/Director of Human Resources/Director of Finance (Joint Approval) plus subsequent notification to the Board of Directors.

14.1.3 All unserviceable articles shall be:

- a) condemned or otherwise disposed of by an employee authorised for that purpose by the Director of Finance; and
- b) recorded by the Condemning Officer in a form approved by the Director of Finance which will indicate whether the articles are to be converted, destroyed or otherwise disposed of. All entries shall be confirmed by the countersignature of a second employee authorised for the purpose by the Director of Finance.

14.1.4 The Condemning Officer shall satisfy himself as to whether or not there is evidence of negligence in use and shall report any such evidence to the Director of Finance who will take the appropriate action.

14.2 **Losses and Special Payments**

14.2.1 **Procedures**

The Director of Finance must prepare procedural instructions on the recording of and accounting for condemnations, losses, and special payments. **

14.2.2 Any employee or officer discovering or suspecting a loss of any kind must either immediately inform their head or department, who must immediately inform the Chief Executive and the Director of Finance or inform an officer charged with responsibility for responding to concerns involving loss or fraud confidentially. This officer will then appropriately inform the Director of Finance and/or Chief Executive. Where a criminal offence is suspected, the Director of Finance must immediately inform the police if theft or arson is involved.

In cases of fraud and bribery or of anomalies which may indicate fraud or bribery, the Director of Finance must inform the relevant LCFS and NHS Protect regional team in accordance with Secretary of State for Health's Directions.

The Director of Finance must notify the NHS Protect and the External Auditor of all frauds.

14.2.3 For losses apparently caused by theft, arson, neglect of duty or gross carelessness, except if trivial, the Director of Finance must immediately notify:

- a) the Board of Directors; and
- b) the External Auditor.

14.2.4 The Board of Directors shall delegate its responsibility for the approval of write-off and authorisation of special payments to the Chief Executive and Director of Finance acting jointly, for such categories or values of losses as the Board of Directors may determine.

14.2.5 For any loss, the Director of Finance should consider whether any insurance claim can be made.

14.2.6 The Director of Finance shall maintain a Losses and Special Payments Register in which write-off action is recorded.

14.2.7 No payment(s) exceeding delegated limits determined by the Board of Directors shall be made without the prior approval of the Director of Finance.

* "Procedural Instructions" on "Compensations, Losses and Special Payments" can be found in section 6 of the Trust Written Financial Procedures. This includes delegated limits.

* "Procedural Instructions" relating to the Disposal of Assets are contained in Section 14 of the Written Financial Procedures.

** "Procedural Instructions" relating to Condemnation, Losses and Special Payments are contained within Section 6 of the Written Financial Procedures.

15. INFORMATION TECHNOLOGY

15.1 Responsibilities and Duties of the Director of Finance

15.1.1 The Director of Finance, who is responsible for guaranteeing that systems are in place to ensure the accuracy and security of the computerised financial data of the Trust, shall:

- a) devise and implement any necessary procedures* to ensure adequate (reasonable) protection of the Trust data, programs and computer hardware for which he/she is responsible from accidental or intentional disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for the Data Protection Act 1998;
- b) ensure that adequate (reasonable) controls exist over data entry, processing, storage, transmission and output to ensure security, privacy, accuracy, completeness, and timeliness of the data, as well as the efficient and effective operation of the system;
- c) ensure that adequate controls exist such that the computer operation function is separated from the development, maintenance and amendment functions; and
- d) ensure that an adequate management (audit) trail exists through the computerised system and that such computer audit reviews as the Director may consider necessary are being carried out.

15.1.2 The Director of Finance shall need to ensure that new financial systems and amendments to current financial systems are developed in a controlled manner and thoroughly tested prior to implementation. Where this is undertaken by another organisation, assurances of adequacy must be obtained from them prior to implementation.

15.2 Responsibilities and Duties of Other Directors and Officers in Relation to Computer Systems of a General Application

15.2.1 In the case of computer systems which are proposed General Applications (i.e. normally those applications which the majority of Authorities/Trusts in the region wish to sponsor jointly) all responsible Directors and employees will send to the Health Informatics Service Director:

- a) details of the outline design of the system; and

- b) in the case of packages acquired either from a commercial organisation, from the NHS, or from another public sector organisation, the operational requirement.

15.2.2 The Trust shall publish and maintain a Freedom of Information (FOI) Publication Scheme, or adopt a model Publication Scheme approved by the information Commissioner. A Publication Scheme is a complete guide to the information routinely published by a public authority. It describes the classes or types of information about our Trust that we make publicly available.

15.3 Contracts for Computer Services with Other Health Bodies or Outside Agencies

The Director of Finance shall ensure that contracts for computer services for financial applications with another health organisation or any other agency or shall clearly define the responsibility of all parties for the security, privacy, accuracy, completeness, and timeliness of data during processing, transmission and storage. The contract should also ensure rights of access for audit purposes.

Where another health organisation or any other agency provides a computer service for financial applications, the Director of Finance shall periodically seek assurances that adequate controls are in operation e.g. that the responsibilities of all parties for the security of data during processing and transmission are clearly defined and accepted by all parties.

15.4 Risk Assessment

The Health Informatics Service Director shall ensure that risks to the Trust arising from the use of IT are effectively identified and considered and appropriate action taken to mitigate or control risk. This shall include the preparation and testing of appropriate disaster recovery plans.

15.5 Requirements for Computer Systems which have an impact on Corporate Financial Systems

Where computer systems have an impact on corporate financial systems the Director of Finance shall satisfy himself that:

- a) systems acquisition, development and maintenance are in line with corporate policies such as an Information Technology Strategy;
- b) data produced for use with financial systems is adequate, accurate, complete and timely, and that a management (audit) trail exists;
- c) Director of Finance and staff have access to such data; and

- d) such computer audit reviews as are considered necessary are being carried out.

16. PATIENTS'/ CLIENTS' PROPERTY

16.1 The Trust has a responsibility to provide safe custody for money and other personal property (hereafter referred to as "property") handed in by patients, in the possession of unconscious, confused or, sectioned patients or found in the possession of patients dying in hospital or dead on arrival.

16.2 The Chief Executive is responsible for ensuring that patients or their guardians, as appropriate, are informed before or at admission by:

- a) notices and information booklets;
- b) hospital admission documentation and property records;
- c) the oral advice of administrative and nursing staff responsible for admissions;

that the Trust will not accept responsibility or liability for patients' property brought into Health Service premises, unless it is handed in for safe custody and a copy of an official patients' property record is obtained as a receipt.

16.3 The Director of Finance must provide detailed written instructions* on the collection, custody, investment, recording, safekeeping, and disposal of patients' property (including instructions on the disposal of the property of deceased patients and of patients transferred to other premises) for all staff whose duty is to administer, in any way, the property of patients. Due care should be exercised in the management of a patient's money in order to maximise the benefits to the patient.

16.4 Where Department of Health instructions require the opening of separate accounts for patients' moneys, these shall be opened and operated under arrangements agreed by the Director of Finance.

16.5 In all cases where property of a deceased patient is of a total value in excess of £5,000 (or such other amount as may be prescribed by any amendment to the Administration of Estates, Small Payments, Act 1965), the production of Probate or Letters of Administration shall be required before any of the property is released. Where the total value of property is £5,000 or less, forms of indemnity shall be obtained.

16.6 Staff should be informed, on appointment, by the appropriate departmental or senior manager of their responsibilities and duties for the administration of the property of patients.

* "Procedural Instructions" relating to the control of Patients' Property are contained within Section 10 "Patients' Property, Income and Allowances" of the Written Financial Procedures.

16.7 Where patients'/client property or income is received for specific purposes and held for safekeeping the property or income shall be used only for that purpose, unless any variation is approved by the donor or patient in writing.

16.8 Where the Trust undertakes the role of Court of Protection for its clients in Health and Social Care, the Director Finance, in consultation with the Director of Internal Audit, shall establish such procedures as deemed appropriate to protect the client and these shall be contained within separate written Financial Procedures.

17. FUNDS HELD ON TRUST (ENDOWMENT/CHARITABLE FUNDS)

Within this section of the Standing Financial Instructions (SFIs) "Charitable Funds" are those gifts, donations and endowments made under the relevant charities legislation and held on trust for purposes relating to the National Health Service, the objects of which are for the benefit of the National Health Service in England. The Board of Directors acting as Trustees administers them.

Such administration will be in line with the detailed instructions below, the Charities Act 1993 and the Trustees Act 2000.

17.1 Corporate Trustee

17.1.1 Standing Order No. 2.8 outlines the Trust's responsibilities as a corporate trustee for the management of funds it holds on trust, along with SO 4.8.3, that defines the need for compliance with Charities Commission latest guidance and best practice.

17.1.2 The discharge of Torbay and South Devon NHS Foundation Trust corporate trustee responsibilities are distinct from its responsibilities for exchequer funds and may not necessarily be discharged in the same manner, but there must still be adherence to the overriding general principles of financial regularity, prudence and propriety. Trustee responsibilities cover both charitable and non-charitable purposes.

17.1.3 The Director of Finance shall ensure that each fund is managed appropriately with regard to its purpose and to its requirements.

Expenditure on Charitable Funds and Endowment Funds is delegated subject to the following limits (inclusive of VAT).

Fund Holder – up to £5,000

Director of Finance - £5,001 to £20,000
Chief Executive - £20,001 to £50,000
Charitable Funds Committee– over £50,000

The authorisers detailed above may also, in circumstances where thought necessary, authorise expenditure with a value below their specified range.

17.1.4 This Section of the Standing Financial Instruction's shall be interpreted and applied in conjunction with the rest of these Instructions, subject to modifications contained herein.

17.2 Accountability to Charity Commission and Secretary of State for Health

17.2.1 The trustee responsibilities must be discharged separately and full recognition given to the Trust's dual accountabilities to the Charity Commission for charitable funds held on trust and to the Secretary of State for all funds held on trust.

17.2.2 The Schedule of Matters Reserved to the Board of Directors and the Scheme of Delegation make clear where decisions regarding the exercise of discretion regarding the disposal and use of the funds are to be taken and by whom. All Board of Directors members and Trust officers must take account of that guidance before taking action.

17.3 Applicability of Standing Financial Instructions to Funds held on Trust

17.3.1 In so far as it is possible to do so, most of the sections of these Standing Financial Instructions will apply to the management of funds held on trust. (See overlap with SFI No 8.6).

17.3.2 The over-riding principle is that the integrity of each Trust must be maintained and statutory and Trust obligations met. Materiality must be assessed separately from Exchequer activities and funds.

17.3.3 The Director of Finance is responsible to the Board of Directors for ensuring that these Standing Financial Instructions are applied and shall nominate an officer to specialise in, and advise on, the management of Charitable Funds in line with the requirements of legislation and best practice.

17.4 Existing Trusts

17.4.1 The Director of Finance shall arrange for the administration of all existing Charitable Funds. He shall ensure that a governing instrument exists for every fund and shall produce detailed codes of procedure covering every aspect of the financial management of funds held on trust, for the

guidance of directors and employees. Such guidelines shall identify the restricted nature of certain funds.*

17.4.2 The Director of Finance shall periodically review the funds in existence and shall make recommendations to the Board of Directors regarding the potential for rationalisation of such funds within statutory guidelines.

17.4.3 The Director of Finance may recommend an increase in the number of funds where this is consistent with Torbay and South Devon NHS Foundation Trust's policy for ensuring the safe and appropriate management of restricted funds, e.g., designation for specific wards or departments.

17.5 New Trusts

17.5.1 The Director of Finance shall arrange for the creation of a new Charitable Fund where funds and/or other assets, received in accordance with Torbay and South Devon NHS Foundation Trust's policies, cannot adequately be managed as part of an existing Charitable Fund.

17.5.2 The Director of Finance shall present the governing document to the Board of Directors for adoption as required in Standing Orders for each new Charitable Fund. Such document shall clearly identify, inter alia, the objectives of the new fund, the capacity of the Board of Directors to delegate powers to manage and the power to assign the residue of the Charitable Fund to another fund contingent upon certain conditions, e.g. discharge of original objectives.

17.6 Sources of New Funds

17.6.1 All gifts accepted shall be received and held in the name of Torbay and South Devon NHS Foundation Trust and administered in accordance with Torbay and South Devon NHS Foundation Trust's policy subject to the terms of specific funds. As Torbay and South Devon NHS Foundation Trust can accept gifts only for all or any purposes relating to the Health Service, officers shall, in cases of doubt consult the Director of Finance before accepting any gifts.

17.6.2 In respect of Donations, the Director of Finance shall;

- a) provide guidelines to officers of Torbay and South Devon NHS Foundation Trust as to how to proceed when offered funds. These to include:
 - i) the identification of the donors intentions;
 - ii) where possible, the avoidance of the need to establish new charitable funds;
 - iii) the avoidance of impossible, undesirable or administratively difficult objects;

- iv) sources of immediate further advice; and
- v) treatment of offers for personal gifts.

- b) provide secure and appropriate receipting arrangements which will indicate that funds have been accepted directly into Torbay and South Devon NHS Foundation Trust's charitable funds and that the donor's intentions have been noted and accepted.

17.6.3 In respect of Legacies And Bequests, the Director of Finance shall:

- a) provide guidelines to officers of Torbay and South Devon NHS Foundation Trust covering any approach regarding:
 - i) the wording of wills; and
 - ii) the receipt of funds/other assets from executors;
- b) where necessary, obtain grant of probate, or make application for grant of letters of administration, where Torbay and South Devon NHS Foundation Trust is the beneficiary;
- c) be empowered, on behalf of Torbay and South Devon NHS Foundation Trust, to negotiate arrangements regarding the administration of a will with executors and to discharge them from their duty;
- d) be directly responsible, in conjunction with the Legal Adviser, for the appropriate treatment of all legacies and bequests; and
- e) shall be kept informed of all enquiries regarding legacies and shall keep an appropriate record. After the death of a testator all correspondence concerning a legacy, including the giving of a good discharge, shall be dealt with on behalf of Torbay and South Devon NHS Foundation Trust by the Director of Finance or an officer identified by him.

17.6.4 In respect of Fund-raising, the Director of Finance shall:

- a) deal with all arrangements for fund-raising by and/or on behalf of Torbay and South Devon NHS Foundation Trust and ensure compliance with all statutes and regulations;
- b) be empowered to liaise with other organisations/persons raising funds for Torbay and South Devon NHS Foundation Trust and provide them with an adequate discharge. The Director of Finance shall be the only officer empowered to give approval for such fund-raising subject to the overriding direction of the Board of Directors;

- c) be responsible for alerting the Board of Directors to any irregularities regarding the use of Torbay and South Devon NHS Foundation Trust name or its registration numbers; and
- d) be responsible for the appropriate treatment of all funds received from this source.

17.6.5 In respect of Trading Income, the Director of Finance shall:

- a) be primarily responsible for any trading undertaken by Torbay and South Devon NHS Foundation Trust as corporate trustee; and
- b) be primarily responsible for the appropriate treatment of all funds received from this source.

17.6.6 In respect of Investment Income, the Director of Finance shall be responsible for the appropriate treatment of all dividends, interest and other receipts from this source (see below).

17.7 Investment Management

17.7.1 The Director of Finance shall be responsible for all aspects of the management of the investment of funds held on a charitable funds basis. The issues on which he shall be required to provide advice to the Board of Directors shall include:

- a) the formulation of investment policy within the powers of Torbay and South Devon NHS Foundation Trust under statute and within governing instruments to meet its requirements with regard to income generation and the enhancement of capital value;
- b) the appointment of advisers, brokers, and, where appropriate, fund managers and:
 - i) the Director of Finance shall agree the terms of such appointments; and for which
 - ii) written agreements shall be signed by the Chief Executive;
- c) pooling of investment resources and the preparation of a submission to the Charity Commission for them to make a scheme;
- d) the participation by Torbay and South Devon NHS Foundation Trust in common investment funds and the agreement of terms of entry and withdrawal from such funds;
- e) that the use of charitable funds assets shall be appropriately authorised in writing and charges raised within policy guidelines;
- f) the review of the performance of brokers and fund managers;

g) the reporting of investment performance.

17.7.2 All share and stock certificates and property deeds shall be deposited either with Torbay and South Devon NHS Foundation Trust bankers or in a safe, or a compartment within a safe, to which only the Director of Finance will have access or person nominated by him.

17.8 Disposition Management

17.8.1 The exercise of Torbay and South Devon NHS Foundation Trust dispositive discretion shall be managed by the Director of Finance in conjunction with the Board of Directors. In so doing he shall be aware of the following:

- a) The objectives of various funds;
- b) the availability of liquid funds within each charitable fund;
- c) the powers of delegation available to commit resources;
- d) the avoidance of the use of exchequer funds to discharge charitable fund liabilities (except where administratively unavoidable), and to ensure that any indebtedness to the Exchequer shall be discharged by charitable funds at the earliest possible time;
- e) that funds are to be spent rather than preserved, subject to the wishes of the donor and the needs of this Body; and
- f) the definitions of "charitable purposes" as agreed by the Department of Health with the Charity Commission.

17.8.2 Officers shall only incur expenditure on any Charitable Fund conditional on the item being within the terms of the appropriate fund and the delegated limits set by the Board of Directors.

17.8.3 Where any aspect of disposition management is undertaken by a Shared Service Centre detailed requirements will be specified in a Service Level Agreement.

17.9 Banking Services

17.9.1 The Director of Finance shall advise the Board of Directors and, with its approval, shall ensure that appropriate banking services are available to Torbay and South Devon NHS Foundation Trust as corporate trustee. These bank accounts shall permit the separate identification of liquid funds to each charitable fund where this is deemed necessary by the Charity Commission.

17.10 Asset Management

- 17.10.1 Assets in the ownership of or used by Torbay and South Devon NHS Foundation Trust as corporate trustee, shall be maintained along with the general estate and inventory of assets of Torbay and South Devon NHS Foundation Trust. The Director of Finance shall ensure:
- a) that appropriate records of all assets owned by Torbay and South Devon NHS Foundation Trust as corporate trustee are maintained, and that all assets, at agreed valuations, are brought to account;
 - b) that appropriate measures are taken to protect and/or to replace assets. These to include decisions regarding insurance, inventory control, and the reporting of losses;
 - c) that donated charitable assets received rather than into the ownership of the Secretary of State shall be accounted for appropriately; and
 - d) that all assets acquired from charitable funds which are intended to be retained within charitable funds are appropriately accounted for, and that all other assets so acquired are brought to account in the name of Torbay and South Devon NHS Foundation Trust as Trustees.

17.11 Reporting

- 17.11.1 The Director of Finance shall ensure that regular reports are made to the Board of Directors with regard to, inter alia, the receipt of funds, investments, and the disposition of resources. The Director of Finance shall prepare annual accounts in the required manner which shall be submitted to the Charitable Funds Committee within agreed timescales.
- 17.11.2 The Director of Finance shall prepare an annual trustees' report and the required returns to be submitted to the Department of Health and to the Charity Commission after adoption by the Charitable Funds Committee.

17.12 Accounting and Audit

- 17.12.1 The Director of Finance shall maintain all financial records to enable the production of reports as above and to the satisfaction of internal and external audit.
- 17.12.2 The Director of Finance shall ensure that the records, accounts and returns receive adequate scrutiny by internal audit during the year. He will liaise with external audit and provide them with all necessary information.
- 17.12.3 The Charitable Funds Committee shall be advised by the Director of Finance on the outcome of the annual audit. The Director of Finance shall

submit the Management Letter to the Charitable Funds Committee and Audit and Assurance Committee.

17.13 Administration Costs

17.13.1 The Director of Finance shall identify all costs directly incurred in the administration of charitable funds and, in agreement with the Board of Directors, shall charge such costs to the appropriate charitable funds.

17.14 Taxation and Excise Duty

17.14.1 The Director of Finance shall ensure that any charitable fund liability to taxation and excise duty is managed appropriately, taking full advantage of available concessions, through the maintenance of appropriate records, the preparation and submission of the required returns and the recovery of deductions at source.

* "Procedural Instructions" relating to Endowment Funds are contained within Section 5 of the Written Financial Procedures.

18. ACCEPTANCE OF GIFTS BY STAFF AND LINK TO STANDARDS OF BUSINESS CONDUCT (SEE OVERLAP WITH SO NO.6 AND SFI NO. 10.2.8)

See Appendix B to Standing Orders, Standards of Business Conduct.

The Director of Finance shall ensure that all staff are made aware of the Trust policy on acceptance of gifts and other benefits in kind by staff. This policy follows the guidance contained in the Department of Health circular HSG (93) 5 'Standards of Business Conduct for NHS Staff' and is also deemed to be an integral part of these Standing Orders and Standing Financial Instructions (see overlap with SO No. 6).

19. RETENTION OF DOCUMENTS

19.1 The Chief Executive shall be responsible for maintaining archives for all records required to be retained in accordance with Department of Health guidelines (Records Management – NHS Code of Practice (Gateway Ref: 6295)).

19.2 The documents held in archives shall be capable of retrieval by authorised persons.

19.3 Records held in accordance with latest Department of Health guidance shall only be destroyed at the express instigation of the Chief Executive. Detail shall be maintained of records so destroyed.

20. RISK MANAGEMENT AND INSURANCE

20.1 Programme of Risk Management

The Chief Executive shall ensure that the Trust has a programme of risk management, in accordance with current Department of Health assurance framework requirements, which must be approved and monitored by the Board of Directors.

The programme of risk management shall include:

- a) a process for identifying and quantifying risks and potential liabilities;
- b) engendering among all levels of staff a positive attitude towards the control of risk;
- c) management processes to ensure all significant risks and potential liabilities are addressed including effective systems of internal control, cost effective insurance cover, and decisions on the acceptable level of retained risk;
- d) contingency plans to offset the impact of adverse events;
- e) audit arrangements including, internal audit, clinical audit, health and safety review;
- f) a clear indication of which risks shall be insured; and
- g) arrangements to review the risk management programme.

The existence, integration and evaluation of the above elements will assist in providing a basis to make a Statement on the effectiveness of Internal Control (SIC) within the Annual Report and Accounts as required by current NHS Improvement/Monitor guidance.

20.2 Insurance: Risk Pooling Schemes Administered by NHSLA

The Board of Directors shall decide if the Trust will insure through the risk pooling schemes administered by the NHS Litigation Authority or top up those schemes where they are deemed insufficient or self insure for some or all of the risks covered by the risk pooling schemes. If the Board of Directors decides not to use the risk pooling schemes for any of the risk areas (clinical, property and employers/third party liability) covered by the scheme this decision shall be reviewed annually.

20.3 Arrangements to be followed by the Board of Directors in agreeing Insurance Cover

- 20.3.1 Where the Board of Directors decides to use the risk pooling schemes administered by the NHS Litigation Authority the Chief Executive shall ensure that the arrangements entered into are appropriate and complementary to the risk management programme. The Chief Executive shall ensure that documented procedures cover these arrangements.
- 20.3.2 The Trust shall consider insurance arrangements with respect to Independent Sector and Social.
- 20.3.3 Where the Board of Directors decides not to use the risk pooling schemes administered by the NHS Litigation Authority for one or other of the risks covered by the schemes or a commercially underwritten scheme, the Director of Finance shall ensure that the Board of Directors is informed of the nature and extent of the risks that are self-insured as a result of this decision. The Director of Finance will draw up formal documented procedures for the management of any claims arising from third parties and payments in respect of losses which will not be reimbursed.

21 Advertising(Excluding Staff Recruitment)

- 21.1 The Trust will comply with the advertising Codes administered by the Advertising Standards Authority and where appropriate specific industry related codes e.g. Code of Practice for the Pharmaceutical industry.
- 21.2 The Trust will comply with the Department of Health 'Code of Practice for the promotion of NHS funded services' or any update there on.
- The code covers events, hospitality, appropriateness of venues, subsistence, inducements, testimonials and endorsements.
 - The Trust will not engage in 'product placement' activity.
- 21.3 Where managers wish to advertise regularly they should prepare a strategy for approval by the Finance, Performance and Investment Committee or TP Board (as appropriate).
- 21.4 For one off adverts the advice of the Director of Finance should be sought.