

## SECTION D - STANDING FINANCIAL INSTRUCTIONS

### 10. INTRODUCTION

#### 10.1 General

- 10.1.1 These Standing Financial Instructions (SFIs) are issued in line with the guidance contained within the PCT (Functions) Directions 2000, issued by the Secretary of State, which require that each PCT 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). These Directions, although not specific to NHS Trusts, are generic enough in structure and content to be applied to Trust use.
- 10.1.2 These Standing Financial Instructions detail the financial responsibilities, policies and procedures adopted by the Trust. They are designed to ensure that the Trust's financial transactions are carried out in accordance with the law and with Government policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the Scheme of Reservation and Delegation and the Scheme of Delegation adopted by the Trust.
- 10.1.3 These Standing Financial Instructions identify the financial responsibilities which apply to everyone working for the Trust and its constituent organisations including Trading Units and hosted shared services. They do not provide detailed procedural advice and should be read in conjunction with the detailed departmental and financial procedure notes. All financial procedures must be approved by the Managing Director of Finance & Business Strategy.
- 10.1.4 Should any difficulties arise regarding the interpretation or application of any of the Standing Financial Instructions then the advice of the Managing Director of Finance & Business Strategy **MUST BE SOUGHT BEFORE ACTING**. The user of these Standing Financial Instructions should also be familiar with and comply with the provisions of the Trust's Standing Orders.
- 10.1.5 **The failure to comply with Standing Financial Instructions and Standing Orders can in certain circumstances be regarded as a disciplinary matter that could result in dismissal.**
- 10.1.6 **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 Committee for referring action or ratification. All members of the Board and staff have a duty to disclose any non-compliance with these Standing Financial Instructions to the Managing Director of Finance & Business Strategy as soon as possible.

#### 10.2 Responsibilities and delegation

##### 10.2.1 The Trust Board

The Board exercises financial supervision and control by:

- i) Formulating the financial strategy;
- ii) Requiring the submission and approval of budgets within approved allocations/overall income;

- iii) Defining and approving essential features in respect of important procedures and financial systems (including the need to obtain value for money);
- iv) Defining specific responsibilities placed on members of the Board and employees as indicated in the Scheme of Delegation document.

10.2.2 The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These are set out in the 'Reservation of Matters Reserved to the Board' document. All other powers have been delegated to such other committees as the Trust has established.

10.2.4 **The Chief Executive and Managing Director of Finance & Business Strategy**

The Chief Executive and Managing Director of Finance & Business Strategy 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 and as Accountable Officer, to the Secretary of State, for ensuring that the Board meets its obligation to perform its functions within the available financial resources. The Chief Executive has overall executive responsibility for the Trust's activities; is responsible to the Chairman and the Board for ensuring that its financial obligations and targets are met and has overall responsibility for the Trust's system of internal control.

10.2.5 It is a duty of the Chief Executive to ensure all Board members and employees, present and future, are notified of and understand their responsibilities within the Standing Financial Instructions.

10.2.6 **The Managing Director of Finance & Business Strategy**

The Managing Director of Finance & Business Strategy is responsible for:

- i) implementing the Trust's financial policies and for coordinating any corrective action necessary to further these policies;
- ii) 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;
- iii) ensuring that sufficient records are maintained to show and explain the Trust's 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 the Trust and employees of the Trust, the duties of the Managing Director of Finance & Business Strategy include:
- iv) the provision of financial advice to other members of the Board and employees;
- v) the design, implementation and supervision of systems of internal financial control;
- vi) 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.
- vii) ensuring there are proper arrangements for the estimates, records and reports as the Trust may require for the purpose of carrying out its statutory duties as prepared and maintained by any shared service centre and hosted shared services.

#### **10.2.7 Board Members and Employees**

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

- i) The security of the property of the Trust;
- ii) Avoiding loss;
- iii) Exercising economy and efficiency in the use of resources;
- iv) Conforming to the requirements of Standing Orders, Standing Financial Instructions, Financial Procedures and the Scheme of Delegation.

#### **10.2.8 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.

10.2.9 For all members of the Board 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 and employees discharge their duties must be to the satisfaction of the Managing Director of Finance & Business Strategy.

### **11. AUDIT**

#### **11.1 Audit Committee**

11.1.1 An independent Audit Committee is the central means by which a Board ensures effective internal control arrangements are in place. In addition, the Audit Committee provides a form of independent check upon the executive arm of the Board. In accordance with Standing Orders the Board shall formally establish an Audit Committee, with clearly defined terms of reference and following guidance from the NHS Audit Committee Handbook (2005).

11.1.2 The minutes of the Audit Committee meetings shall be formally recorded by the Secretary and submitted to the Board. The Committee will report to the Board annually on its work in support of the Statement on Internal Control, specifically commenting on the fitness for purpose of the Assurance Framework, the completeness and embeddedness of risk management in the organisation, the integration of governance arrangements and the appropriateness of the self-assessment against the Standards for Better Health.

11.1.3 Where the Audit Committee considers there is an issue that requires disclosure or executive action, or if there are other important matters that the Committee wishes to raise, the Chairman of the Audit Committee should raise the matter at a full meeting of the Board. Exceptionally, the matter may need to be referred to the Department of Health. (To the Managing Director of Finance & Business Strategy in the first instance.)

#### **11.2 Managing Director of Finance & Business Strategy**

11.2.1 The Managing Director of Finance & Business Strategy is responsible for:

- i) 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;

- ii) ensuring that the Internal Audit function meets the NHS mandatory audit standards and provides sufficient independent and objective assurance to the Audit Committee and the Accountable Officer;
- iii) deciding at what stage to involve the police in cases of misappropriation and other irregularities not involving fraud or corruption;
- iv) ensuring that an annual internal audit report is prepared for the consideration of the Audit Committee. The report must cover:
  - a) a clear opinion on the effectiveness of internal control in accordance with current assurance framework guidance issued by the Department of Health including for example compliance with control criteria and standards;
  - b) major internal financial control weaknesses discovered;
  - c) progress on the implementation of internal audit recommendations;
  - d) progress against plan over the previous year;
  - e) a strategic audit plan covering the coming three years;
  - f) a detailed plan for the coming year.

11.2.2 The Managing Director of Finance & Business Strategy or designated auditors, internal or external, is entitled without necessarily giving prior notice to require and receive:

- i) access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;
- ii) access at all reasonable times to any land, premises or members of the Board or employee of the Trust;
- iii) the production of any cash, stores or other property of the Trust under a member of the Board and or an employee's control; and
- iv) explanations concerning any matter under investigation.

### **11.3 Role of Internal Audit**

11.3.1 Internal Audit is an independent and objective appraisal service within an organisation which provides:

- i) an independent and objective opinion to the Accountable Officer, the Board, and the Audit Committee on the degree to which risk management, control and governance, support the achievement of the organisation's agreed objectives;
- ii) an independent and objective consultancy service specifically to help line management improve the organisation's risk management, control and governance arrangements.

11.3.2 Internal Audit will review, appraise and report upon policies, procedures and operations in place to;

- i) establish and monitor the achievement of the organisation's objectives; ;
- ii) identify, assess and manage the risks to achieving the organisation's objectives;
- iii) ensure the economical, effective and efficient use of resources;
- iv) ensure compliance with established policies (including behavioral and ethical expectations), procedures, laws and regulations;

- v) safeguard the organisation's assets and interests from losses of all kinds, including those arising from fraud, irregularity or corruption;
  - vi) ensure the integrity and reliability of information, accounts and data, including internal and external reporting and accountability processes.
- 11.3.3 The Head of Internal Audit will provide to the Audit Committee;
- i) A risk-based plan of internal audit work, agreed with management and approved by the Audit Committee, based upon the management's Assurance Framework that will enable the auditors to collect sufficient evidence to give an opinion on the adequacy and effective operation of the organisation;
  - ii) Regular updates on the progress against plan;
  - iii) Reports of management's progress on the implementation of action agreed as a result of internal audit findings;
  - iv) An annual opinion, based upon and limited to the work performed, on the overall adequacy and effectiveness of the organisation's risk management, control and governance processes. This opinion issued by the Board to inform the SIC and by the Strategic Health Authority as part of its performance management role;
  - v) A report supporting Trust assurances to the Healthcare Commission on compliance with Standards for Better Health;
  - vi) Additional reports as requested by the Audit Committee.
- 11.3.4 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 Managing Director of Finance & Business Strategy must be notified immediately.
- 11.3.5 The Head of Internal Auditor will normally attend Audit Committee meetings and has a right of access to all Audit Committee members, the Chairman and Chief Executive of the Trust.
- 11.3.6 The Head of Internal Audit reports to the Audit Committee and is managed by the Managing Director of Finance & Business Strategy. The reporting system for Internal Audit shall be agreed between the Managing Director of Finance & Business Strategy, the Audit Committee and the Head of Internal Audit. The agreement shall be in writing and shall comply with the guidance on reporting contained in the NHS Internal Audit Standards. The reporting system shall be reviewed at least every three years.
- 11.3.7 The appointment and termination of the Head of Internal Audit and/or the Internal Audit Service must be approved by the Audit Committee.

#### **11.4 External Audit**

- 11.4.1 The External Auditor is appointed by the Audit Commission and paid for by the Trust. The Audit Committee must ensure a cost-efficient service. If there are any problems relating to the service provided by the External Auditor, then this should be raised with the External Auditor and referred on to the Audit Commission if the issue cannot be resolved.

## **11.5 Fraud and Corruption**

- 11.5.1 In line with their responsibilities, the Trust Chief Executive and Managing Director of Finance & Business Strategy shall monitor and ensure compliance with Directions issued by the Secretary of State for Health on fraud and corruption.
- 11.5.2 The Trust shall nominate a suitable person to carry out the duties of the Local Counter Fraud Specialist (LCFS) as specified by the NHS Counter Fraud and Corruption Manual, and guidance.
- 11.5.3 The LCFS shall report to the Trust Managing Director of Finance & Business Strategy and shall work with staff in the NHS Counter Fraud Service (NHS CFS) and the Operational Fraud Team (OFT) in accordance with the NHS Counter Fraud and Corruption Manual.
- 11.5.4 The LCFS will provide a written report, at least annually, on counter fraud work within the Trust.

## **11.6 Security Management**

- 11.6.1 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.
- 11.6.2 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.
- 11.6.3 The Trust shall nominate a Non-Executive Director to oversee the NHS Security Management service who will report to the Board.
- 11.6.4 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).

## **12. BUSINESS PLANNING, BUDGETS, BUDGETARY CONTROL, AND MONITORING**

### **12.1 Preparation and Approval of Business Plans and Budgets**

12.1.1 The Chief Executive will compile and submit to the Board an annual business plan which takes into account financial targets and forecast limits of available resources. The annual business plan will contain:

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

12.1.2 Prior to the start of the financial year the Managing Director of Finance & Business Strategy will, on behalf of the Chief Executive, prepare and submit budgets for approval by the Board. Such budgets will:

- i) be in accordance with the aims and objectives set out in the annual business plan;
- ii) accord with activity and manpower plans;
- iii) be produced following discussion with appropriate budget holders;
- iv) be prepared within the limits of available funds;
- v) identify potential risks.

12.1.3 The Managing Director of Finance & Business Strategy shall monitor financial performance against budget and business plan, periodically review them, and report to the Board.

12.1.4 All budget holders must provide information as required by the Managing Director of Finance & Business Strategy to enable budgets to be compiled.

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

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

### **12.3 Budgetary Delegation**

12.3.1 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:

- i) the amount of the budget;
- ii) the purpose(s) of each budget heading;
- iii) individual and group responsibilities;
- iv) authority to exercise virement;
- v) achievement of planned levels of service;
- vi) the provision of regular reports.

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

12.3.3 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.

12.3.4 Non-recurring budgets should not be used to finance recurring expenditure without the authority in writing of the Chief Executive, as advised by the Managing Director of Finance & Business Strategy.

#### **12.4 Budgetary Control and Reporting**

12.4.1 The Managing Director of Finance & Business Strategy will devise and maintain systems of budgetary control. These will include:

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

12.4.2 Each Budget Holder is responsible for ensuring that:

- i) any likely overspending or reduction of income which cannot be met by virement is not incurred without the prior consent of the Board;
- ii) 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;
- iii) no permanent employees are appointed without the approval of the Chief Executive other than those provided for within the available resources and manpower establishment as approved by the Board.

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



**12.5 Capital Expenditure**

- 12.5.1 The general rules applying to delegation and reporting shall also apply to capital expenditure. (The particular applications relating to capital are contained in SFI 22).

**12.6 Monitoring Returns**

- 12.6.1 The Chief Executive is responsible for ensuring that the appropriate monitoring forms are submitted to the requisite monitoring organisation.

### **13. ANNUAL ACCOUNTS AND REPORTS**

- 13.1 The Managing Director of Finance & Business Strategy, on behalf of the Trust, will:
- i) prepare financial returns in accordance with the accounting policies and guidance given by the Department of Health and the Treasury, the Trust's accounting policies, and generally accepted accounting practice;
  - ii) prepare and submit annual financial reports to the Department of Health certified in accordance with current guidelines;
  - iii) submit financial returns to the Department of Health for each financial year in accordance with the timetable prescribed by the Department of Health.
- 13.2 The Trust's annual accounts must be audited by an auditor appointed by the Audit Commission. The Trust's audited annual accounts must be presented to a public meeting and made available to the public.
- 13.3 The Trust will publish an annual report, in accordance with guidelines on local accountability, and present it at a public meeting. The document will comply with the Department of Health's Manual for Accounts.

## **14. BANK AND OPG ACCOUNTS**

### **14.1 General**

14.1.1 The Managing Director of Finance & Business Strategy 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 the Department of Health. In line with 'Cash Management in the NHS'. Trusts should minimize the use of commercial bank accounts and consider using Office of the Paymaster General (OPG) accounts for all banking services.

14.1.2 The Board shall approve the banking arrangements.

### **14.2 Bank and OPG Accounts**

14.2.1 The Managing Director of Finance & Business Strategy is responsible for:

- i) bank accounts and Office of the Paymaster General (OPG) accounts;
- ii) establishing separate bank accounts for the Trust's non-exchequer funds;
- iii) ensuring payments made from bank or OPG accounts do not exceed the amount credited to the account except where arrangements have been made;
- iv) reporting to the Board all arrangements made with the Trust's bankers for accounts to be overdrawn.
- v) monitoring compliance with Department of Health guidance on the level of cleared funds.

### **14.3 Banking Procedures**

14.3.1 The Managing Director of Finance & Business Strategy will prepare detailed instructions on the operation of bank and OPG accounts which must include:

- i) the conditions under which each bank and OPG account is to be operated;
- ii) those authorised to sign cheques or other orders drawn on the Trust's accounts.

14.3.2 The Managing Director of Finance & Business Strategy must advise the Trust's bankers in writing of the conditions under which each account will be operated.

14.3.4 The Managing Director of Finance & Business Strategy must advise the Office of the Paymaster General in writing, including a copy of the Board's resolution, 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 National Health Service or by resolution of the Board of Directors as may be necessary from time to time. In addition, the Managing Director of Finance & Business Strategy shall advise the bankers and the Office of the Paymaster General, in writing, of the officer(s) and/ or Director(s) authorised to release money from, and draw cheques on, each bank account of 'Leicestershire Partnership NHS Trust' and shall notify promptly the cancellation of any such authorisation.

14.3.5 Where an agreement is entered into with any other body for payment to be made on behalf of 'Leicestershire Partnership NHS Trust' from bank accounts maintained in the name of the Trust or other body, or by Electronic Funds Transfer Bankers Automated Clearance Services (BACS), the Managing Director of Finance & Business Strategy shall ensure that satisfactory security

regulations of the Trust / other body relating to bank accounts exist and are observed. This will be specified in a Service Level Agreement with the appropriate body.

#### **14.4 Tendering and Review**

- 14.4.1 The Managing Director of Finance & Business Strategy will review the commercial banking arrangements of the Trust at regular intervals to ensure they reflect best practice and represent best value for money by periodically seeking competitive tenders for the Trust's commercial banking business.
- 14.4.2 Competitive tenders should be sought at least every five years. The results of the tendering exercise should be reported to the Board. This review is not necessary for OPG accounts.
- 14.4.3 Report the results of the tendering exercise to the Board.

## **15. INCOME, FEES AND CHARGES AND SECURITY OF CASH, CHEQUES AND OTHER NEGOTIABLE INSTRUMENTS**

### **15.1 Income Systems**

- 15.1.1 The Managing Director of Finance & Business Strategy is responsible for designing, maintaining and ensuring compliance with systems for the proper recording, invoicing, and collection and coding of all monies due.
- 15.1.2 The Managing Director of Finance & Business Strategy is also responsible for the prompt banking of all monies received.

### **15.2 Fees and Charges**

- 15.2.1 The Trust shall follow the Department of Health's advice in the "Costing" Manual in setting prices for NHS service agreements.
- 15.2.2 The Managing Director of Finance & Business Strategy 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. 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.
- 15.2.4 All employees must inform the Managing Director of Finance & Business Strategy promptly of money due arising from transactions which they initiate/deal with, including all contracts, leases, tenancy agreements, private patient undertakings and other transactions.

### **15.3 Debt Recovery**

- 15.3.1 The Managing Director of Finance & Business Strategy is responsible for the appropriate recovery action on all outstanding debts.
- 15.3.2 Income not received should be dealt with in accordance with losses procedures.
- 15.3.3 Overpayments should be detected (or preferably prevented) and recovery initiated.

### **15.4 Security of Cash, Cheques and other Negotiable Instruments**

- 15.4.1 The Managing Director of Finance & Business Strategy is responsible for:
  - i) approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable;
  - ii) ordering and securely controlling any such stationery;
  - iii) 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;
  - iv) prescribing systems and procedures for handling cash and negotiable securities on behalf of the Trust.
- 15.4.3 Official money shall not under any circumstances be used for the encashment of private cheques or IOUs.

- 15.4.4 All cheques, postal orders, cash etc., shall be banked intact. Disbursements shall not be made from cash received, except under arrangements approved by the Managing Director of Finance & Business Strategy.
- 15.4.5 The holders of safe keys shall not accept unofficial funds 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.

## **16. TENDERING AND CONTRACTING PROCEDURE**

The Trust shall ensure that competitive tenders are invited for the supply of goods/services, materials and manufactured articles, for the rendering of services for building and engineering works of construction and maintenance (including construction and maintenance of grounds and gardens) for disposals.

The Trust has in place specific procedures for Tendering and Contracting and must be followed in all activity carried out on behalf of the Trust. **(See Separate Tendering and Quotations Procedure).**

### **16.1 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 No. 3.13 Suspension of Standing Orders is applied).

### **16.2 EU Directives Governing Public Procurement**

- i) 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.
- ii) Trust's should consider obtaining support from the NHS Purchasing and Supply Agency for procurement to ensure compliance when engaging in tendering procedures.

### **16.3 Reverse eAuctions**

The Trust should have policies and procedures in place for the control of all tendering activity carried out through Reverse eAuctions. For further guidance on Reverse eAuctions refer to [www.ogc.gov.uk](http://www.ogc.gov.uk)

### **16.4 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 "Estatecode" in respect of capital investment and estate and property transactions.

### **16.5 Formal Competitive Tendering**

#### **16.5.1 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 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); for disposals.

### 16.5.2 Health Care Services

Where the Trust elects to invite tenders for the supply of healthcare services 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. 17 and No. 18.

### 16.5.3 Exceptions and instances where formal tendering need not be applied

Formal tendering procedures **need not be applied** where:

- i) the estimated expenditure or income does not, or is not reasonably expected to, exceed amounts stated within the Trust's Scheme of Delegation;
- ii) where the supply is proposed under special arrangements negotiated by the DH in which event the said special arrangements must be complied with;
- iii) regarding disposals as set out in Standing Financial Instructions No. 25;

Formal tendering procedures **may be waived** in the following circumstances:

- i) in very exceptional circumstances where the Chief Executive 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;
- ii) where the requirement is covered by an existing contract;
- iii) where PaSA, OGC or other NHS agreements are in place;
- iv) 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;
- v) 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;
- vi) specialist expertise, such as ongoing maintenance contracts, is required and is available from only one source; or
- vii) 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;
- viii) 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;
- ix) 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 Managing Director of Finance & Business Strategy will ensure that any fees paid are reasonable and within commonly accepted rates for the costing of such work.

- x) where allowed and provided for in the Capital Investment Manual.

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.

All waivers should be approved by two signatures from:-

- a) Chief Executive
- b) Managing Director of Finance & Business Strategy.
- c) Chief Operating Officer

Waivers must be documented using the standard waiver form (SO1).

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 to the Audit Committee at regular intervals..

#### **16.5.4 Fair and Adequate Competition**

Where the exceptions set out in SFI Nos. 16.1 and 16.5.3 apply, 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 in no case less than three firms/individuals, having regard to their capacity to supply the goods or materials or to undertake the services or works required.

#### **16.5.5 Advertising Opportunities**

The Trust shall ensure that tender opportunities are advertised appropriately to ensure a wide range of suppliers have access to bid for Trust business.. All prospective tenderers will be subject to financial viability checks through approved means and the taking up of references, where appropriate.

#### **16.5.6 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, and be recorded in an appropriate Trust record and reported to the Audit Committee.

### **16.6 Contracting/Tendering Procedure**

#### **16.6.1 Invitation to tender**

- i) All invitations to tender shall state the date and time as being the latest time for the receipt of tenders.
- ii) All invitations to tender shall state that no tender will be accepted unless:

- a) submitted in 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;
- 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.
- iii) Every tender for goods, materials, services or disposals shall embody such of the NHS Standard Contract Conditions as are applicable.
- iv) Every tender for building or engineering works (except for maintenance work) shall embody or be in the terms of the current edition of one of the Joint Contracts Tribunal Standard Forms of Building Contract or Department of the Environment (GC/Wks) Standard forms of contract amended to comply with Concode; or, when the content of the work is primarily engineering, the General Conditions of Contract recommended by the Institution of Mechanical and Electrical 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 Institute 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. Where other procurement methods are used for example PFI or P21 the appropriate department of health contractual arrangements will be used.
- v) Every tender must have given, or give a written undertaking, not to engage in collusive tendering or other restrictive practice.

#### 16.6.2 **Receipt and safe custody of tenders**

The Chief Executive or his/her nominated representative will be responsible for the receipt, endorsement and safe custody of tenders received until the time appointed for their opening.

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

#### 16.6.3 **Opening tenders and Register of tenders**

- i) As soon as practicable after the date and time stated as being the latest time for the receipt of tenders, they shall be opened by two senior officers/managers designated by the Chief Executive and not from the originating department.
- ii) The 'originating' Department will be taken to mean the Department sponsoring or commissioning the tender.
- iii) The involvement of Managing Director of Finance & Business Strategy staff in the preparation of a tender proposal will not preclude the Managing Director of Finance & Business Strategy or any approved Senior Manager from the Managing Director of Finance & Business Strategy from serving as one of the two senior managers to open tenders.
- iv) All Executive Directors/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 Secretary will count as a Director for the purposes of opening tenders.

- v) 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:
- a. the name of all firms individuals invited;
  - b. the names of firms individuals from which tenders have been received;
  - c. the date the tenders were received and opened;
  - d. the persons present at the opening;
  - e. the price shown on each tender;
  - f. a note where price alterations have been made on the tender and suitably initialed.

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.

- vi) 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/her 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 Order No. 16.6.5 below).

#### 16.6.4 **Admissibility**

- i) If for any reason the designated officers are of the opinion that the tenders received are not strictly competitive (for example, because their numbers are insufficient or any are amended, incomplete or qualified) no contract shall be awarded without the approval of the Chief Executive.
- ii) Where only one tender is sought and/or received, the Chief Executive and Managing Director of Finance & Business Strategy shall, as far practicable, ensure that the price to be paid is fair and reasonable and will ensure value for money for the Trust.

#### 16.6.5 **Late tenders**

- i) 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/her nominated officer decides that there are exceptional circumstances i.e. despatched in good time but delayed through no fault of the tenderer.
- ii) 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/her nominated officer or if the process of evaluation and adjudication has not started.
- iii) 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/her nominated officer.
- iv) Accepted late tenders will be reported to the Audit Committee.

**16.6.6 Acceptance of formal tenders (See overlap with SFI No. 16.7)**

- i) Any discussions with a tenderer which are deemed necessary to clarify technical aspects of his/her tender before the award of a contract will not disqualify the tender.
- ii) The tender that demonstrates overall value for money in accordance with the agreed scoring methodology, 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;
- d) ability to complete the project on time.

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.

- iii) 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.
- iv) The use of these procedures must demonstrate that the award of the contract was:
  - a) not in excess of the going market rate / price current at the time the contract was awarded;
  - b) that best value for money was achieved.
- v) All tenders should be treated as confidential and should be retained for inspection.

**16.6.7 Tender reports to the Trust Board**

Reports to the Trust Board will be made as required.

**16.6.8 List of approved firms (see SFI No. 16.5.5)**

**i) Responsibility for maintaining list**

If necessary, a manager nominated by the Chief Executive shall on behalf of the Trust maintain any lists of approved firms from who tenders and quotations may be invited. These shall be kept under frequent review. The lists shall include 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.

## ii) **Building and Engineering Construction Works**

- a) 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 the latest Department of Health Guidance.
- b) 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, and will comply with the provisions of the Equal Pay Act 1970, the Sex Discrimination Act 1975 and 2006, the Race Relations Act 1976, and the Disabled Persons (Employment) Act 1944 and any amending and/or related and latest legislation.
- c) 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.

## iii) **Financial Standing and Technical Competence of Contractors**

The Managing Director of Finance & Business Strategy 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.

### 16.6.9 **Exceptions to using approved contractors**

If in the opinion of the Chief Executive and the Managing Director of Finance & Business Strategy or the Director with lead responsibility for clinical governance 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 Chief Executive 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.

## 16.7 **Quotations: Competitive and non-competitive**

### 16.7.1 **General Position on quotations**

Quotations are required where formal tendering procedures are not adopted and where the intended expenditure or income exceeds, or is reasonably expected to exceed the level defined in the Trust's Scheme of Delegation.

### 16.7.2 **Competitive Quotations**

- i) Quotations should be obtained from firms/individuals in line with the scheme of delegation, and based on specifications or terms of reference prepared by, or on behalf of, the Trust.
- ii) Quotations should be in writing unless the Chief Executive or his/her nominated officer determines that it is impractical to do so in which case quotations may be obtained by

telephone. Confirmation of telephone quotations should be obtained as soon as possible and the reasons why the telephone quotation was obtained should be set out in a permanent record.

- iii) All quotations should be treated as confidential and should be retained for inspection.
- iv) The Chief Executive or his/her nominated officer should evaluate the quotation and select the quote which gives the best value for money. If this is not the lowest quotation if payment is to be made by the Trust, or the highest if payment is to be received by the Trust, then the choice made and the reasons why should be recorded in a permanent record.

#### **16.7.3 Non-Competitive Quotations**

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

- i) 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;
- ii) the supply of goods or manufactured articles of any kind which are required quickly and are not obtainable under existing contracts;
- iii) miscellaneous services, supplies and disposals;
- iv) where the goods or services are for building and engineering maintenance the responsible works manager must certify that the first two conditions of this SFI (i.e.: (i) and (ii) of this SFI) apply.

#### **16.7.4 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 Managing Director of Finance & Business Strategy.

#### **16.8 Authorisation of Tenders and Competitive Quotations**

Providing all the conditions and circumstances set out in these Standing Financial Instructions have been fully complied with, formal authorisation and awarding of a contract shall be made in accordance with the Trust's Scheme of Delegation:

Levels of authorisation may be varied or changed and need to be read in conjunction with the Trust Board's Scheme of Delegation.

Formal authorisation must be put in writing. In the case of authorisation by the Trust Board this shall be recorded in their minutes.

#### **16.9 Instances where formal competitive tendering or competitive quotation is not required**

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

- i) The Trust shall use pre-tendered public sector contracts and framework agreements available for use by the NHS for procurement of all goods and services unless the Chief Executive or nominated officers deem it inappropriate. .

- ii) If the Trust does not use the NHS Purchasing & Supplies Agency - where tenders or quotations are not required, because expenditure is below that stated in the Trust Scheme of Delegation, the Trust shall procure goods and services in accordance with procurement procedures approved by the Managing Director of Finance & Business Strategy.

#### **16.10 Private Finance for capital procurement (see overlap with SFI No. 23)**

The Trust should normally market-test for PFI (Private Finance Initiative funding) when considering a capital procurement. When the Board proposes, or is required, to use finance provided by the private sector the following should apply:

- i) The Chief Executive shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector.
- ii) Where the sum exceeds delegated limits, a business case must be referred to the appropriate Department of Health for approval or treated as per current guidelines.
- iii) The proposal must be specifically agreed by the Board of the Trust.
- iv) The selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

#### **16.11 Compliance requirements for all contracts**

The Board may only enter into contracts on behalf of the Trust within the statutory powers delegated to it by the Secretary of State and shall comply with:

- i) The Trust's Standing Orders and Standing Financial Instructions;
- ii) European Union (EU) Directives and other statutory provisions;
- iii) any relevant directions including the Capital Investment Manual, Estatecode and guidance on the Procurement and Management of Consultants;
- iv) Such of the NHS Standard Contract Conditions as are applicable.
- v) 'Standards for Better Health';
- vi) Contracts with Foundation Trusts must be in a form compliant with appropriate NHS guidance.
- vii) 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.
- viii) In all contracts made by the Trust, the Board 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.

#### **16.12 Healthcare Services Agreements (see overlap with SFI No. 17)**

Service agreements with NHS providers for the supply of healthcare services shall be drawn up in accordance with the NHS and Community Care Act 1990 and administered by the Trust. Service agreements are not contracts in law and therefore not enforceable by the courts. However, a contract with a Foundation Trust, being a Public Benefit Corporation (PBC), is a legal document and is enforceable in law.

The Chief Executive shall nominate officers to commission service agreements with providers of healthcare in line with a commissioning plan approved by the Board.

#### **16.13 Disposals (See overlap with SFI No. 25)**

Competitive Tendering or Quotation procedures shall not apply to the disposal of:

- i) 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/her nominated officer;
- ii) obsolete or condemned articles and stores, which may be disposed of in accordance with the supplies policy of the Trust;
- iii) items to be disposed of with an estimated sale value of that which is stated within the Trust Scheme of Delegation: this figure to be reviewed on a periodic basis;
- iv) items arising from works of construction, demolition or site clearance, which should be dealt with in accordance with the relevant contract;
- v) land or buildings concerning which DH guidance has been issued but subject to compliance with such guidance.

#### **16.14 In-house Services**

16.14.1 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.

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

- i) Specification group, comprising the Chief Executive or nominated officer/s and specialist.
- ii) In-house tender group, comprising a nominee of the Chief Executive and technical support.
- iii) Evaluation team, comprising normally a specialist officer, a supplies officer and a Managing Director of Finance & Business Strategy representative. For services having a likely annual expenditure exceeding that stated within the Trust Scheme of Delegation, a non-officer member should be a member of the evaluation team.

16.14.3 All groups should 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.

16.14.4 The evaluation team shall make recommendations to the Board.



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

**16.15 In-house Services**

16.15.1 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.

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- i) Specification group, comprising the Chief Executive or nominated officer/s and specialist.
- ii) In-house tender group, comprising a nominee of the Chief Executive and technical support.
- iii) Evaluation team, comprising normally a specialist officer, a supplies officer and a Managing Director of Finance & Business Strategy representative. For services having a likely annual expenditure exceeding that stated within the Trust Scheme of Delegation, a non-officer member should be a member of the evaluation team.

16.15.3 All groups should 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.

16.15.4 The evaluation team shall make recommendations to the Board.

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

## **17. NHS SERVICE AGREEMENTS FOR PROVISION OF SERVICES (see overlap with SFI No. 16.13)**

### **17.1 Service Level Agreements (SLAs)**

17.1.1 The Chief Executive, as the Accountable Officer, is responsible for ensuring the Trust enters into suitable Service Level Agreements (SLA) with service commissioners for the provision of NHS services.

All SLAs should aim to implement the agreed priorities contained within the Business Plan and wherever possible, be based upon integrated care pathways to reflect expected patient experience. In discharging this responsibility, the Chief Executive should take into account:

- the standards of service quality expected;
- the relevant national service framework (if any);
- the provision of reliable information on cost and volume of services;
- the NHS National Performance Assessment Framework;
- that Service Level Agreements build where appropriate on existing Joint Investment Plans;
- that Service Level Agreements are based on integrated care pathways.

### **17.2 Involving Partners and jointly managing risk**

A good Service Level Agreement will result from a dialogue of clinicians, users, carers, public health professionals and managers. It will reflect knowledge of local needs and inequalities. This will require the Chief Executive to ensure that the Trust works with all partner agencies involved in both the delivery and the commissioning of the service required. The Service Level Agreement will apportion responsibility for handling a particular risk to the party or parties in the best position to influence the event and financial arrangements should reflect this. In this way the Trust can jointly manage risk with all interested parties.

### **17.3 A 'Patient Led NHS and 'Practice Based Commissioning''**

The Department of Health has published its document 'Creating a Patient-led NHS' and 'Practice Based Commissioning' setting out the basis upon which the Government's major reform agenda will be carried forward.

#### **A 'Patient-led NHS'**

Every aspect of the new system is designed to create a service which is patient-led, where:

- people have a far greater range of choices and of information and guidance to help make choices;
- there are stronger standards and safeguards for patients;
- NHS organisations are better at understanding patients and their needs, use new and different methodologies to do so and have better and more regular sources of information about preferences and satisfaction.

#### **What services will look like**

In order to be patient-led the NHS will develop new service models which build on current experience and innovation to:

- give patients more choice and control wherever possible;
- offer integrated networks for emergency, urgent and specialist care to ensure that everyone throughout the country has access to safe, high quality care;
- make sure that all services and all parts of the NHS contribute to health promotion, protection and improvement.

### **Securing services**

The NHS will develop the way it secures services for its patients. It will:

- promote more choice in acute care by offering choice to the patient both in number and type of provider;
- encourage development of new community and primary services alongside new practices;
- strengthen existing networks for emergency, urgent and specialist services;
- build on current practices in shared commissioning to create a far simpler contract management and administration system that can be professionally managed.

### **Changing the way the NHS works**

The NHS needs a change of culture as well as of systems to become truly patient-led, where:

- everything is measured by its impact on patients and type of provider;
- the NHS is as concerned with health promotion and prevention as with sickness and injury;
- frontline staff have more authority and autonomy to better support the patient;
- barriers which create rigidity and inflexibility are tackled and codes of conduct and shared values are instilled into the culture.

### **Making the changes**

A Patient-led NHS needs effective organisations and incentives, with:

- a new development programme to help NHS Trusts become NHS Foundation Trusts;
- a similar structured programme to support PCTs in their development of 'Practice Based Commissioning';
- further development of Payment by Results to provide appropriate financial incentives for all services;
- greater integration of all the financial and quality incentives along with full utilization of new human resources and IT programmes

Commissioning a Patient-led NHS and Practice Based Commissioning are being rolled out by the Department of Health and full support and latest guidance may be accessed at <http://www.dh.gov.uk>

## **17.4 Reports to the Trust Board on Service Level Agreements**

The Chief Executive, as the Accountable Officer, will need to ensure that regular reports are provided to the Board detailing actual and forecast income from the Service Level Agreement. This will include information on costing arrangements, which increasingly should be based upon

Healthcare Resource Groups (HRGs). Where HRGs are unavailable for specific services, all parties should agree a common currency for application across the range of SLAs.

## **18. COMMISSIONING**

[This section is not normally applicable to NHS Trusts since they are providers rather than commissioners of health services. However, in limited cases Trusts may be responsible for operational commissioning of services. In these circumstances Trusts should refer to the model SFIs on Commissioning for PCTs and adopt/amend the relevant paragraphs as appropriate].

