

Association of NHS Charities

Constitution

1. Introduction

- 1.1 The name of the Association is the 'Association of NHS Charities'.
- 1.2 The Association is established under this Constitution from 1 July 2008, with the Transitional Arrangements set out in Clause 13 below to run until not later than the Annual Business Meeting in 2010.
- 1.3 Where the Transitional Arrangements set out in Clause 13 below differ from the provisions set out in the earlier clauses of this Constitution, the Transitional Arrangements prevail in the period referred to in clause 1.2 above.

2. Object

The object of the Association is the advancement of health, and in particular, but without limitation, the promotion of the effective working of NHS charities, as defined below ('**the Object**').

3. Powers

In furtherance of the Object but not further or otherwise the Association shall have power to:

- 3.1 further the charitable purposes of all or any NHS charities generally; encourage the development of their work and establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Object;
- 3.2 co-operate with other charities, voluntary bodies and statutory authorities and exchange information and advice with them;
- 3.3 employ and pay any person or persons, not being members of the Council, to supervise, organise and carry on the work of the Association and make all reasonable and necessary provision for the payment of pensions and superannuation to or on behalf of employees and their widows, widowers, civil partners and dependants;
- 3.4 appoint delegates and representatives to any other bodies with which the Association may be concerned;
- 3.5 bring together in conference representatives of voluntary organisations, Government departments, statutory authorities and individuals;

- 3.6 promote and carry out, or assist in promoting and carrying out, research, surveys and investigations and publish the results of such research, surveys and investigations;
- 3.7 arrange and provide for, or join in arranging and providing for, the holding of exhibitions, meetings, lectures, classes, seminars and training courses;
- 3.8 collect and disseminate information on all matters affecting the Object and exchange such information with other bodies, having similar or related objects, in whatever jurisdiction;
- 3.9 constitute, undertake, execute, manage or assist any charitable trusts which may lawfully be undertaken, executed, managed or assisted by the Association;
- 3.10 procure to be written and print, publish, issue and circulate gratuitously or otherwise such papers, books, periodicals, pamphlets or other documents or films or recorded tapes or similar media as shall further the Object;
- 3.11 purchase, take on lease or exchange, hire or otherwise acquire any property and any rights and privileges necessary for the promotion of the Object and construct, maintain and alter any buildings or erections necessary for the work of the Association;
- 3.12 sell, let, mortgage, dispose of or turn to account all or any of the property or assets of the Association;
- 3.13 accept gifts whether in the form of permanent endowment or otherwise, for the general purposes of the Association or for any special purpose connected with the Association;
- 3.14 borrow or raise money for the Object on such terms and on such security as shall be thought fit;
- 3.15 procure contributions to the Association by personal or written appeals, public meetings or otherwise;
- 3.16 invest the money of the Association, not immediately required for the Object, in or on such investments, securities or property, as may be thought fit, to the intent that the Association shall have the same powers in all respects as beneficial owners beneficially entitled;
- 3.17 employ any person, firm or company to manage or assist in managing the Association's investments upon such reasonable terms as the Council think fit;
- 3.18 vest any property or investment belonging to the Association in any corporation or any other person as nominee for the Council, on such terms as the Council sees fit;

- 3.19 make payments (or afford other assistance) to full members or affiliated members (for services or by way of charitable application) even if a member of the Council is connected with that full member or affiliated member, provided the procedures in Clause 7.1(j) are followed;
- 3.20 indemnify any member of the Council against any liability incurred by him or her in that capacity, to the extent permitted by law; and
- 3.21 do all such other lawful things as are necessary for the attainment of the Object.

4. **Membership**

4.1 The Association shall consist of the following classes of membership:

- (a) full members;
- (b) affiliated members; and
- (c) such other classes of membership as the Council may from time to time decide.

4.2 **Full members**

- (a) Subject to Clause 4.4 below, full membership shall be open to all NHS charities, *their successor and/or linked charities* on payment of the appropriate annual subscription (as determined from time to time by the Council) and written agreement to be bound by the terms of this Constitution.
- (b) An NHS charity:
 - (1) is established for charitable purposes relating to the National Health Service in England and Wales ('NHS') or to any entity (including an NHS foundation trust) established under NHS legislation;
 - (2) has trustee arrangements which have been established under NHS legislation or agreed with the Department of Health; and
 - (3) will usually (but not necessarily) involve the individuals responsible for ensuring that trustee duties are fulfilled being appointed by or on behalf of the Secretary of State for Health or Welsh Ministers exercising their powers under NHS legislation or otherwise in relation to the NHS.
- (c) The final decision as to whether a charity is an 'NHS charity' for the purpose of admission to full membership of the Association lies with the Council.

*NB *4.2 Amended by a Members Resolution – 12.6.2013 to add words in italics*

- (d) Where a number of NHS charities are held by one trustee or body of trustees and / or grouped under a single registration number on the central register of the Charity Commission, they shall count as a single NHS charity for the purpose of admission to full membership of the Association.
- (e) Where an NHS charity is constituted as a trust, the full membership of the Association shall be exercised by an appointee of its trustee(s) as provided in paragraph (f) below.
- (f) Each full member shall be entitled to appoint individuals - whether or not from amongst its trustees or, where it has a corporate trustee, its board - to represent it and to vote on its behalf at meetings of the Association, provided notice is given to the Association of the names of the full member's appointed representatives, and also to act as a member of Council, if elected or co-opted in accordance with Clause 8.
- (g) Where any of the provisions of this Constitution refer to a full member, the reference can, where the context so admits, mean the full member's appointed representative(s).
- (h) The Council shall maintain (or cause to be maintained) a database of all NHS charities, recognising that it is reliant on the Charity Commission for information to do this.

4.3 **Affiliated membership**

- (a) The Council shall have discretion to admit as an affiliated member of the Association any person or organisation (including a non-charitable organisation or a charity which is not an NHS charity) which is interested in the activities of the Association.
- (b) The terms of affiliated membership, including voting rights, shall be determined by the Council.

4.4 **Admission to and termination of membership**

- (a) The Council shall have the right:
 - (1) to approve or reject applications for membership;
 - (2) to vary from time to time the terms and conditions applicable to membership; and

- (3) for good and sufficient reason to suspend the membership of any member, provided that the member concerned shall have the right to be heard by the Council before a recommendation for expulsion is made.
 - (b) Any member may resign from membership of the Association at any time but will not be entitled to any refund of the annual subscription due for that year.
 - (c) All full members, on taking up membership of the Association, accept an obligation
 - (1) to pay their subscriptions on time and in full; and, in addition,
 - (2) to pay on demand to the Association such contribution as may be required to make good any shortfall in the assets of the Association, so as to indemnify, to the extent permitted by law, the members of the Council against any liability incurred by them in that capacity.
- The contribution due from each full member in this regard shall be calculated by pro-rating the amount which the auditor of the Association assesses to be the shortfall amongst all the full members, according to their respective subscription rates.
- (d) Membership of the Association will automatically lapse if a subscription is not received by the Association within six months of the date of the request for payment.

5. Annual and Special Business Meetings

- 5.1 The Annual Business Meeting of the Association shall be held once in each year at such time (not being more than 9 months after the end of each financial year) and place as the Council shall determine.
- 5.2 The usual business of the Annual Business Meeting shall be:
 - (a) to receive reports from the Chairman and other officers of the Association;
 - (b) to receive and approve the annual accounts and to appoint auditors;
 - (c) (subject to Clause 11) to make any amendment to the Constitution;
 - (d) to decide on any recommendation from the Council concerning expulsion from membership of a member; and

(e) to consider any matter or proposal of which due notice has been given in writing to the Chairman, Deputy Chairman or Director not less than ten days before the date of the meeting.

5.3 The Council may at any time, and shall within 28 days of receiving a request in writing of any ten (or more) full members, convene a Special Business Meeting (which may include business usually transacted at the Annual Business Meeting).

5.4 At least 28 clear days' notice of a Business Meeting shall be given by the Director to each member.

5.5 At Business Meetings of the Association each full member shall have one vote, but the number of delegates from each full member may not necessarily be restricted unless for other reasons.

5.6 The quorum at a Business Meeting of the Association shall consist of delegates from not less than 25% of the full membership.

5.7 If present, the Chairman of the Council shall preside at any Business Meeting. In his absence, the Deputy Chairman shall take this role, or, in his absence, the full members shall decide upon a chairman.

6. Finance

6.1 The financial year of the Association will end on 31 December, unless changed by resolution of the Council.

6.2 The annual subscription scale for full members and affiliated members (and any other classes of membership which the Council may introduce) shall be set by the Council and notified to the membership at the Annual Business Meeting prior to the financial year concerned.

6.3 All funds and assets in the possession of the Association shall be held paid out and applied as the Council may direct in furtherance of the Object, provided that nothing contained in this Constitution shall prevent the payment in good faith of reasonable and proper remuneration to any employee of the Association or the repayment of reasonable out-of-pocket expenses.

6.4 A bank account shall be opened in the name of the Association with such bank as the Council shall from time to time decide.

6.5 The Director shall from time to time recommend to the Council the amount of funds surplus to immediate requirements and the Council shall decide upon the amount to be invested and the manner of its investment.

- 6.6 The Council may delegate to any person, who is in the opinion of the Council qualified for that purpose, the management of any land belonging to the Association or the making and changing of the Association's investments, provided that such person shall give to the Council a regular account of such activities concerning the same.
- 6.7 Mortgages or other assurances for securing money to the Association may be vacated by a receipt endorsed or annexed signed by any two members of the Council or a member of the Council and the Director.
- 6.8 *Auditors, or Independent Examiners* shall be elected at the Annual Business Meeting.
- 6.9 The accounts shall *either be audited or subject to an independent examination* at least once a year and an audited statement of the accounts or the Independent Examiner's report for the last financial year shall be submitted by the Council to the Annual Business Meeting. *The decision whether to have a full audit or an independent examination shall be made by Council each year.*

7. Council - powers and duties

- 7.1 The Council shall have the general management and direction of the funds and affairs of the Association and in consequence will be the 'charity trustees' of the Association within the meaning of section 97 of the Charities Act 1993. In particular (but without prejudice to the generality of the foregoing) the Council:
- (a) shall set the annual budget of the Association;
 - (b) shall appoint bankers and approve the opening of appropriate accounts in the name of the Association, and will ensure that appropriate accounts of income and expenditure of the Association are maintained;
 - (c) shall nominate auditors to the Association for approval at the Annual Business Meeting prior to the financial year concerned;
 - (d) shall send a report and audited accounts or the Independent Examiner's report to all members within 9 months of the end of the financial year;
 - (e) shall make an annual report of the Association's activities and Accounts for the year to the Annual Business Meeting following the end of the financial year;

NB. 6.8 Amended by a Members Resolution - 5.3.2014

- (f) shall arrange ballots of the full members to effect the election of the Council members, as provided in Clause 8 below;
- (g) may nominate any member of the Association (or representative) to serve as the Association's representative on another body;
- (h) may pay the reasonable and proper expenses of any member of the Council of the Association in or about the execution of any function or duty on behalf of the Association;
- (i) may establish appropriate written regulations (provided they are not inconsistent with this Constitution) to cover arrangements to carry out its responsibilities, and for co-ordinating the business of the Association (which regulations shall be available to members of the Association);
- (j) shall ensure that, if the Council considers making a payment (or affording other assistance) to a full member or affiliated member (for services or by way of charitable application) at a meeting of the Council or at a meeting of a sub-committee of the Council, any Council member who is connected with that full member or affiliated member:
 - (1) declares an interest as or before discussion begins on the matter;
 - (2) withdraws from the meeting for that item unless expressly invited to remain in order to provide information;
 - (3) is not counted in the quorum for that part of the meeting;
 - (4) withdraws during the vote and has no vote on the matter; and
 - (5) complies with such additional procedures as are required by law or by the Council's regulations or policies from time to time in force; andif the payment is for services provided to the Association, the Council shall ensure that the amount (or maximum amount) of the remuneration to be paid to the full member or affiliated member is agreed in writing and is reasonable for the services in question and that the Council is satisfied that it is in the best interests of the Association to enter into this arrangement and that, at all times, the number of Council members who are in this position constitute a minority of the Council;
- (k) may fill casual vacancies in its membership by additional co-options, which may not extend beyond the conclusion of the next Annual Business Meeting;

- (l) may establish and maintain sub-committees and project groups (determining their terms of reference, powers, duration and composition), and delegate matters to them, ensuring appropriate reporting arrangements to the Council;
- (m) may appoint technical panels or individuals to advise and assist it, on such terms as the Council thinks fit; and
- (n) may appoint and fix the remuneration of such staff, not being members of the Council, as may, in its opinion, be necessary; and
- (o) shall be entitled to be indemnified to the extent permitted by law against any liability incurred by him or her in that capacity.

7.2 The proceedings of the Council shall not be invalidated by any failure to elect or any defect in the election, appointment, co-option or qualification of any member of the Council.

8. Council - composition

- 8.1 Unless otherwise determined by a Business Meeting of the Association, the Council shall comprise up to 15 individuals (who may be trustees or senior officers of a full member which is managed by individual trustees, or members of the board or senior officers of a corporate trustee body), as follows:
- (a) 4 elected from the full members paying the maximum subscription;
 - (b) 8 elected from other full members;
 - (c) up to 3 co-opted by the Council whose term of service will be as though they had been elected.
- 8.2 Each elected member of the Council must come from a separate full member or an affiliated member who is deemed to be a full member (save during the Transitional Arrangements – as to which see Clause 13). They are not, however, representatives of that full member or affiliated member.
- 8.3 At least 3 of the 12 elected members must be trustees or non-executives of a corporate trustee, and at least 1 of the 3 co-opted members.
- 8.4 Council Members' term of office shall be 3 years, renewable, on the recommendation of the Council, for a maximum total period of 9 years.
- 8.5 A member of the Council shall immediately cease to be a member if he or she ceases to hold office as a full member of the Association.

- 8.6 Each member of the Council shall have one vote. The Chairman shall have a second, or casting, vote in the event of a tied vote.
- 8.7 The Council may invite representatives of any external organisation to attend as an observer at Council meetings.
- 8.8 The Council shall be responsible for establishing the rules and arrangements for elections to the Council.
- 8.9 The Council shall meet formally not less than twice in one financial year, with not more than six months between meetings.
- 8.10 Members of Council may not send an alternate to meetings of the Council, unless there are exceptional circumstances and the prior approval of the Chairman has been obtained.

9. **Chairman and Deputy Chairman**

- 9.1 The Council shall, at its first meeting in each financial year, elect a Chairman to hold office until the first meeting in the following financial year.
- 9.2 The Council may also elect a Deputy Chairman for the same period.
- 9.3 No person may hold the office of Chairman or Deputy Chairman for more than 6 consecutive years.
- 9.4 In the event of the Chairman or the Deputy Chairman resigning or ceasing to be a member of Council, the Council shall elect a replacement to serve for the remainder of the term, this period of office not counting for the purpose of the limits set out in Clause 9.3.
- 9.5 The Council shall approve the role specification of the Chairman and Deputy Chairman (if any).

10. **Director**

- 10.1 The Council shall appoint a Director, who will be responsible to it for the management of the Association and who, with the Chairman, shall represent the Association.
- 10.2 The Council shall approve the role specification for the Director and the terms and conditions of employment of the Director.
- 10.3 The Director shall be the main policy adviser to the Council.

- 10.4 The Director shall attend all meetings of the Council, unless specifically requested otherwise.
- 10.5 The Director shall ensure that appropriate support is provided to any sub-committees and project groups established by Council so that they meet Council's requirements.
- 10.6 The Director shall make a written report on the work of the Council to the Annual Business Meeting covering the period since the previous Annual Business Meeting.

11. **Amendments**

- 11.1 Alteration to this Constitution shall require the assent of 75% of the full members present and voting at a Business Meeting.
- 11.2 If a full member wishes to propose a change to the Constitution, the proposed change must be sent in writing to the Council at least 60 days before the Annual Business Meeting or Special Business Meeting, with written support from not less than 6 other full members.
- 11.3 No alteration to Clause 2 or this Clause 11.3 shall take effect without the approval in writing of the Charity Commission.
- 11.4 No alteration shall be made which would have the effect of causing the Association to cease to be a charity in law.

12. **Winding up of the Association**

- 12.1 The Association may be dissolved by a resolution passed by a 75% majority of full members present and voting at a Business Meeting of the Association, convened for the purpose.
- 12.2 Such resolution may give instructions for the disposal of any assets held by or in the name of the Association, provided that if any property remains after the satisfaction of all debts and liabilities, such property shall not be paid to or distributed to or among the members but shall be given or transferred to such charitable institution or institutions, having objects similar or related to the Object, or for charitable purposes related to the promotion of health as the full members may determine, and, if and insofar as effect cannot be or is not given to this provision, then to such charitable institution or institutions or for such charitable purpose as the Charity Commission may direct.

13. **Transitional Arrangements**

- 13.1 The founding full members of the Association are listed at APPENDIX 1.

- 13.2 The Interim Council will initially comprise those listed in APPENDIX 2.
- 13.3 The Interim Council will formalise an invitation to the Healthcare Financial Management Association to send an Observer to meetings of the Interim Council.
- 13.4 The Interim Council may co-opt additional members up to a total of 15 members, and appoint replacements for any members who cease to hold office during the Interim period, provided not less than 4 of the 15 members are Trustees or Non-Executives of a Corporate Trustee.
- 13.5 The Interim Council will make arrangements for the election of new members of the Council in accordance with the Constitution (Clause 8) to have effect not later than the Annual Business Meeting to be held in 2010.
- 13.6 The initial levels of subscriptions for the two year period up to 31 December 2010 will be approved at the Annual Business Meeting in 2008. The Interim Council will make recommendations in respect of levels of subscriptions for 2011 and beyond to the Annual Business Meeting in 2010.
- 13.7 The first financial year of the Association will end on 31 December 2009.
- 13.8 The Interim Council will take responsibility for ensuring that the work of the former Convenor, Assistant Convenor, and Advisory Group, is appropriately shared by individual members of Council, as well as the Council as a whole, to ensure smooth continuation of the Association's business: see APPENDIX 3.
- 13.9 The Interim Council will approve the role specification for the future Chairman of Council.
- 13.10 The Interim Council will develop and approve the role specification for the Director and make arrangements to recruit a Director to be in post at the latest by 31 December 2009.
- 13.11 These Transitional Arrangements will lapse at the conclusion of the 2010 Annual Business Meeting.

Association of NHS Charities

APPENDIX 1

FOUNDER MEMBER CHARITIES

The following are the 42 founder full members of the Association:

Above and Beyond Charities (The Charitable Trusts for the United Bristol Hospitals)

The Addenbrooke's Charitable Trust

Barts and the London Charity

Birmingham Children's Hospital Charities

South Buckinghamshire NHS Trust Charitable Fund

Cardiff and Vale NHS Trust General Purpose Charity

Central Manchester and Manchester Children's University Hospitals Charity

Chelsea and Westminster Health Charity

The Christie Hospital Charitable Fund

Derby Hospitals Charitable Trust

Doncaster and Bassetlaw Hospitals NHS Foundation Trust Charitable Fund

The Great Ormond Street Hospital Children's Charity

The Guy's & St Thomas' Charity

Heart of England NHS Foundation Trust General Charitable Fund

King's College Hospital Charity

Leeds Teaching Hospitals Charitable Foundation

University Hospitals of Leicester NHS Trust Charitable Fund

The Special Trustees of Moorfields Eye Hospital General Fund

Newcastle Healthcare Charity

Newcastle upon Tyne Hospitals NHS Charity

North Central London NHS Charitable Fund

Charities administered in connection with North West London Hospitals NHS Trust

Northampton General Hospital NHS Trust Charitable Fund

Nottingham University Hospitals Charity

Oxford Radcliffe Hospitals Charitable Fund

Royal Brompton and Harefield Hospital Charitable Fund

The Royal Free Hampstead Charitable Trust

Royal Liverpool and Broadgreen University Hospital NHS Trust Charitable Funds

Royal Liverpool Children's Charitable Fund

The Royal Marsden Hospital Charity

The Special Trustees of the Royal National Orthopaedic Hospital Charity

Sandwell and West Birmingham Hospitals NHS Trust Charities

Sheffield Hospitals Charitable Trust

The South London and Maudsley NHS Trust Charitable Funds

Southampton University Hospitals NHS Trust General Charitable Fund

Southend Hospital NHS Trust Charity

St George's Hospital Charity

The Charitable Funds of Charing Cross, Hammersmith and Queen Charlotte's Hospitals

St Mary's Paddington Charitable Trust

University College London Hospitals Charities

University Hospital Birmingham Charities

University Hospital of North Staffordshire Charitable Fund

South Manchester University Hospitals NHS Trust General Charitable Fund

King Edward's Hospital Fund for London

Association of NHS Charities**Appendix 2****MEMBERSHIP OF THE INTERIM COUNCIL**

Simon Anderson	(Chairman, Addenbrooke's Charitable Trust)	-	Interim Chairman
John Collinson	(Director, King's College Hospital Charity)	-	Interim Deputy Chairman
Ros Clarke	(Director, Above & Beyond Charities for United Bristol Hospitals)		
Keith Day	(Chief Executive, Addenbrooke's Charitable Trust)		
Andrew Douglas	(Chief Executive, Barts & The London Charity)		
Sandra Lawman	(Secretary, Charitable Funds for South London & Maudsley NHS Trust)		
Christine Monk	(Charity Secretary, Great Ormond Street Hospital Children's Charity)		
Mark Nicholls	(Chairman, Hammersmith/St Mary's Charities)		
Geoffrey Shepherd	(Chief Executive, Guy's & St Thomas' Charity)		
Stuart Reynolds	(Charity Chief Executive, Birmingham Children's Hospital Charity)	-	Interim Director

Up to 5 additional Members to be coopted by Council

Observer from the Healthcare *Financial Management Association*

JWC/JL

20 February 2008

Association of NHS Charities**APPENDIX 3****ROLES OF INTERIM DEPUTY CHAIRMAN and INTERIM DIRECTOR**

- 1 The role of the former Convenor will be shared by the Interim Deputy Chairman of Council (John Collinson) and the Interim Director (Stuart Reynolds). The role of the Advisory Group will be transferred to the Interim Council.
- 2 The Constitution makes no proposals for establishing an Executive Committee and it will be for the Interim Chairman to decide whether it is necessary to formalise an additional small group to support him, the Interim Deputy Chairman, and the Interim Director.
- 3 The administrative work of the former Convenor will initially be divided between the Interim Deputy Chairman and Interim Director as follows:

Interim Deputy Chairman

- Arrangements for Council meetings
- Preparation of role specification for Director
- Recruitment of Director
- Sponsorship
- Links with other organisations, particularly the Charity Commission, Department of Health, Healthcare Financial Management Association
- Meetings of Chief Executives/Directors (or Representatives)
- Papers for the Annual Business Meetings in 2009 and 2010
- Arrangements for the Annual Business Meeting & Dinner in 2010

Interim Director

- Maintenance of the NHS Charities Database
- Preparation of Budget proposals
- Subscription portfolio, including issuing of Invoices
- Marketing the Association to NHS Charities
- Establishing a Bank A/C and Accounts (formerly Events Fund)

- Events Programme (individual events to be led by others)
 - Preparation of Reports and Accounts for Business Meetings
 - Arrangements for the Annual Business Meeting & Dinner in 2009
- 4 In the light of experience, the Interim Council will approve the role specification for the recruitment of the Director.

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20 February 2008