

# **NHS Hertfordshire and West Essex Integrated Care Board**

## **CONSTITUTION** version 5.0

<b>Version</b>	<b>Date approved by the ICB</b>	<b>Effective date</b>
V1.0	Formal letter of approval received from NHS England 1 <sup>st</sup> June 2022. Pending adoption by HWE ICB for 1 <sup>st</sup> July 2022.	1 <sup>st</sup> July 2022
	Constitution adopted by the HWE ICB at its first meeting.	1 <sup>st</sup> July 2022
V 2.0	<p>Amendments requested by NHS England to all ICB Constitutions – 14<sup>th</sup> September 2022:</p> <ul style="list-style-type: none"> <li>• Section 1.4.7 (f) – Health and Care Act reference ‘section 14Z44’ corrected to read ‘section 14Z45’</li> <li>• Section 3.2.4 – Reference to the ‘sections 56A to 56K of the Scottish Bankruptcy Act 1985’ replaced with ‘Part 13 of the Bankruptcy (Scotland) Act 2016’.</li> <li>• Section 7.1.1 – Reference to ‘paragraph 11(2)’ amended to ‘paragraph 12(2)’.</li> </ul>	23 <sup>rd</sup> September 2022 – approved for adoption by HWE ICB Board. 27 <sup>th</sup> September 2022 submitted to NHS England for formal approval. 4 <sup>th</sup> October 2022 formal approval received from NHS England.
V 3.0	Sections 2.2.2, 2.2.3, 2.3.2, 3.12 and Appendix 1 – amended to include a new Board Member - VCFSE	18 <sup>th</sup> November 2022 - Amendments supported by HWE ICB Board
V.4.0	Sections 1.6.2 (b) – removal of “that”, 2.2.3 (f) and 3.11 with a move from four to five Non-Executive Members. 3.6.7, and 3.7.6 – inclusion of “is”.	24 <sup>th</sup> March 2023 – Amendments supported by the HWE ICB Board. 2 <sup>nd</sup> June 2023 – NHS E approval received.
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	3.6.7 3.7.6 3.7.8 (b) and (c) 3.10 4.7.1	
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# 1. Introduction

## 1.1 Background/foreword

Up until 1<sup>st</sup> July 2022, Clinical Commissioning Groups were responsible for the planning and commissioning of health care services in local areas. Since 2016, health and care organisations have increasingly been working together in every part of England to coordinate services and to plan in a way that improves population health and reduces inequalities between different groups. The formation of non-statutory Integrated Care Systems (ICSs) has accelerated this change.

The Health and Care Act 2022 (the 2022 Act) amends the Health and Social Care Act 2012, abolishing Clinical Commissioning Groups (14Z27) and establishing statutory Integrated Care Boards (ICBs) and statutory Integrated Care Partnerships (ICPs).

Following the passing of this statute, the ICBs take on the commissioning functions of the CCGs as well as some of NHS England's commissioning functions. However, an ICB is not simply a larger CCG but is expected to work differently in practice – its governance model reflects the need for integration and collaboration across the system. It has the ability to exercise its functions through for example, place-based or provider collaboratives (while remaining accountable for them) and it will also be directly accountable for NHS spend and performance within the system.

NHS England has set out the following as the four core purposes of ICSs:

- a) improve outcomes in population health and healthcare
- b) tackle inequalities in outcomes, experience and access
- c) enhance productivity and value for money
- d) help the NHS support broader social and economic development.

The ICB will use its resources and powers to achieve demonstrable progress on these aims, collaborating to tackle complex challenges, including:

- improving the health of children and young people
- supporting people to stay well and independent
- acting sooner to help those with preventable conditions
- supporting those with long-term conditions or mental health issues
- caring for those with multiple needs as populations age
- getting the best from collective resources so people get care as quickly as possible.

## 1.2 Name

- 1.2.1 The name of this Integrated Care Board is NHS Hertfordshire and West Essex Integrated Care Board ('the ICB').

### **1.3 Area covered by the Integrated Care Board**

- 1.3.1 The area covered by the ICB includes the Borough of Broxbourne, Borough of Dacorum, District of East Hertfordshire, District of Epping Forest, District of Harlow, Borough of Hertsmer, City of St Albans, Borough of Stevenage, District of Three Rivers, District of Uttlesford, Borough of Watford, and the Borough of Welwyn Hatfield. The ICB also covers part of the District of North Hertfordshire.
- 1.3.2 Lower Layer Super Output Areas (LSOAs) in the District of North Hertfordshire which are not covered by the ICB are provided at Appendix 3.

### **1.4 Statutory framework**

- 1.4.1 The ICB is established by order made by NHS England under powers in the National Health Service Act (the 2006 Act).
- 1.4.2 The ICB is a statutory body with the general function of arranging for the provision of services for the purposes of the health service in England and is an NHS body for the purposes of the 2006 Act.
- 1.4.3 The main powers and duties of the ICB to commission certain health services are set out in sections 3 and 3A of the 2006 Act. These provisions are supplemented by other statutory powers and duties that apply to ICBs, as well as by regulations and directions (including, but not limited to, those made under the 2006 Act).
- 1.4.4 In accordance with section 14Z25(5) of, and paragraph 1 of Schedule 1B to, the 2006 Act, the ICB must have a constitution, which must comply with the requirements set out in that Schedule. The ICB is required to publish its Constitution (section 14Z29). This Constitution is published on the website at [www.hertsandwestessexics.org.uk](http://www.hertsandwestessexics.org.uk)
- 1.4.5 The ICB must act in a way that is consistent with its statutory functions, both powers and duties. Many of these statutory functions are set out in the 2006 Act but there are also other specific pieces of legislation that apply to ICBs. Examples include, but are not limited to, the Equality Act 2010 and the Children Acts. Some of the statutory functions that apply to ICBs take the form of general statutory duties, which the ICB must comply with when exercising its functions. These duties include but are not limited to:

- a) having regard to and acting in a way that promotes the NHS Constitution (section 2 of the Health Act 2009 and section 14Z32 of the 2006 Act)
- b) exercising its functions effectively, efficiently and economically (section 14Z33 of the 2006 Act)
- c) duties in relation children including safeguarding, promoting welfare, etc (including the Children Acts 1989 and 2004, and the Children and Families Act 2014)
- d) adult safeguarding and carers (the Care Act 2014)
- e) equality, including the public sector equality duty (under the Equality Act 2010) and the duty as to health inequalities (section 14Z35)
- f) information law (for instance, data protection laws, such as the UK General Data Protection Regulation 2016/679 and Data Protection Act 2018, and the Freedom of Information Act 2000).
- g) provisions of the Civil Contingencies Act 2004.

1.4.6 The ICB is subject to an annual assessment of its performance by NHS England, which is also required to publish a report containing a summary of the results of its assessment.

1.4.7 The performance assessment will assess how well the ICB has discharged its functions during that year and will, in particular, include an assessment of how well it has discharged its duties under:

- a) section 14Z34, of the 2006 Act (improvement in quality of services)
- b) section 14Z35, of the 2006 Act (reducing inequalities)
- c) section 14Z38, of the 2006 Act (obtaining appropriate advice)
- d) section 14Z40, of the 2006 Act (duty in respect of research)
- e) section 14Z43, of the 2006 Act (duty to have regard to effect of decisions)
- f) section 14Z45, of the 2006 Act (public involvement and consultation)
- g) sections 223GB to 223N, of the 2006 Act (financial duties)
- h) section 116B(1) of the Local Government and Public Involvement in Health Act 2007 (duty to have regard to assessments and strategies).

1.4.8 NHS England has powers to obtain information from the ICB (section 14Z60 of the 2006 Act) and to intervene where it is satisfied that the ICB is failing, or has failed, to discharge any of its functions or that there is a significant risk that it will fail to do so (section 14Z61).

1.4.9 Each ICB and its partner local authorities will be required to establish an ICP, bringing together health, social care, public health (and representatives from the wider public space where appropriate, such as social care providers or housing providers).

1.4.10 The ICP will be tasked with developing a strategy to address the health, social care and public health needs of its system. The ICB and local authorities will have to have regard to that plan when making decisions.

## **1.5 Status of this Constitution**

1.5.1 The ICB was established on 1 July 2022 by The Integrated Care Boards (Establishment) Order 2022, which made provision for its Constitution by reference to this document.

1.5.2 This Constitution must be reviewed and maintained in line with any agreements with, and requirements of, NHS England set out in writing at establishment.

1.5.3 Changes to this Constitution will not be implemented until, and are only effective from, the date of approval by NHS England.

## **1.6 Variation of this Constitution**

1.6.1 In accordance with paragraph 15 of Schedule 1B to the 2006 Act, this Constitution may be varied in accordance with the procedure set out in this paragraph. The Constitution can only be varied in two circumstances:

- a) where the ICB applies to NHS England in accordance with NHS England's published procedure and that application is approved
- b) where NHS England varies the Constitution of its own initiative (other than on application by the ICB).

1.6.2 The procedure for proposal and agreement of variations to the Constitution is as follows:

- a) The Chief Executive Officer may periodically propose amendments to the constitution that shall be considered and approved by the Board Members in accordance with the Standing Orders, prior to making an application in compliance with paragraph 1.6.2 (c) below; or

- b) At least half (50%) of all the board members formally request the amendments for approval in compliance with paragraph 1.6.2 (c) below.
- c) Proposed amendments to this Constitution will not be implemented until an application to NHS England for variation has been approved.

## 1.7 Related documents

1.7.1 This Constitution is also supported by a number of documents that provide further details on how governance arrangements in the ICB will operate.

1.7.2 The following are appended to the Constitution and form part of it for the purpose of clause 1.6 and the ICB's legal duty to have a constitution:

- a) **Standing orders** – which set out the arrangements and procedures to be used for meetings and the processes to appoint the ICB committees.

1.7.3 The following do not form part of the Constitution but are required to be published:

- a) **Scheme of Reservation and Delegation (SoRD)** – sets out those decisions that are reserved to the board of the ICB and those decisions that have been delegated in accordance with the powers of the ICB and which must be agreed in accordance with and be consistent with the Constitution. The SoRD identifies where, or to whom, functions and decisions have been delegated to.
- b) **Functions and Decision Map** – a high level structural chart that sets out which key decisions are delegated and taken by which part or parts of the system. The Functions and Decision Map also includes decision-making responsibilities that are delegated to the ICB (e.g. from NHS England).
- c) **Standing Financial Instructions** – which set out the arrangements for managing the ICB's financial affairs.
- d) **The ICB Governance Handbook** – this brings together all the ICB's governance documents so it is easy for interested people to navigate. It includes:
  - the above documents a) – c)

- terms of reference for all committees and sub-committees of the board that exercise ICB functions
- delegation arrangements for all instances where ICB functions are delegated, in accordance with section 65Z5 of the 2006 Act, to another ICB, NHS England, an NHS trust, NHS foundation trust, local authority, combined authority or any other prescribed body; or to a joint committee of the ICB and one of those organisations in accordance with section 65Z6 of the 2006 Act
- terms of reference of any joint committee of the ICB and another ICB, NHS England, an NHS trust, NHS foundation trust, local authority, combined authority or any other prescribed body; or to a joint committee of the ICB and one or those organisations in accordance with section 65Z6 of the 2006 Act
- the up-to-date list of eligible providers of primary medical services under clause 3.6.2.

e) **Key policy documents**, which are included in the Governance Handbook include:

- Standards of business conduct policy (incorporating the conflicts of interest policy and procedures)
- Policy for working in partnership with people and communities.

## 2. Composition of the Board of the ICB

### 2.1 Background

- 2.1.1 This part of the Constitution describes the membership of the ICB. Further information about the criteria for the roles and how they are appointed is in Section 3.
- 2.1.2 Further information about the individuals who fulfil these roles can be found on our website at [www.hertsandwestessexics.org.uk](http://www.hertsandwestessexics.org.uk)
- 2.1.3 In accordance with paragraph 3 of Schedule 1B to the 2006 Act, the membership of the ICB (referred to in this Constitution as ‘the board’ and members of the ICB are referred to as ‘board members’) consists of:
- a) a Chair
  - b) a Chief Executive
  - c) at least three Ordinary Members.
- 2.1.4 The membership of the ICB (the board) shall meet as a unitary board and shall be collectively accountable for the performance of the ICB’s functions.
- 2.1.5 NHS England Policy requires the ICB to appoint the following additional Ordinary Members:
- a) three Executive Members, namely:
    - Director of Finance – hereafter referred to as the Chief Finance Officer
    - Medical Director
    - Director of Nursing
  - b) At least two non-executive members.
- 2.1.6 The ordinary members include at least three members who will bring knowledge and a perspective from their sectors. These members (known as Partner Members) are nominated by the following, and appointed in accordance with the procedures set out in Section 3 below:
- NHS trusts and foundation trusts that provide services within the ICB’s area and are of a prescribed description

- the primary medical services (general practice) providers within the area of the ICB and are of a prescribed description
- the local authorities that are responsible for providing social care and whose area coincides with or includes the whole or any part of the ICB's area.

While the partner members will bring knowledge and experience from their sector and will contribute the perspective of their sector to the decisions of the board, they are not to act as delegates of those sectors.

## **2.2 Board membership**

### **2.2.1 The ICB has six Partner Members:**

- Three members nominated jointly by the NHS trusts and NHS foundation trusts that - (i) provide services for the purposes of the health service within the ICB's area, and (ii) are of a prescribed description found at paragraph 3.5.2
- Three members nominated jointly by persons who - (i) provide primary medical services for the purposes of the health service within the ICB's area, and (ii) are of a prescribed description found at paragraph 3.6.3.
- Two members nominated jointly by the local authorities whose areas coincide with, or include the whole or any part of, the ICB's area.

### **2.2.2 The ICB has also appointed the following further Ordinary Members to the board:**

- In addition to the non-executive roles referenced at paragraph 2.1.5(b) above, two further non-executive members have been appointed to the board.
- An Ordinary Member bringing knowledge and experience from the local VCFSE sector has also been appointed. This member will contribute the perspective of their sector to the decisions of the board, they are not to act as delegates for those sectors.

### **2.2.3 The board is therefore composed of the following members:**

- Chair
- Chief Executive
- three Partner Members NHS trusts and foundation trusts
- three Partner Members primary medical services
- two Partner Members local authorities

- f) five Non-executive Members.
- g) VCFSE Alliance (please refer to paragraph 3.12 below)
- h) Chief Finance Officer
- i) Medical Director
- j) Director of Nursing

2.2.4 The Chair will exercise their function to approve the appointment of the Ordinary Members with a view to ensuring that at least one of the Ordinary Members will have knowledge and experience in connection with services relating to the prevention, diagnosis and treatment of mental illness.

2.2.5 The board will keep under review the skills, knowledge and experience that it considers necessary for members of the board to possess (when taken together) for the board effectively to carry out its functions and will take such steps as it considers necessary to address or mitigate any shortcoming.

## **2.3 Regular participants and observers at board meetings**

2.3.1 The board may invite specified individuals to be Participants or Observers at its meetings to inform its decision-making and the discharge of its functions as it sees fit.

2.3.2 Participants will receive advanced copies of the notice, agenda and papers for board meetings. They may be invited to attend any or all of the board meetings, or part(s) of a meeting by the Chair. Any such person may be invited, at the discretion of the Chair, to ask questions and address the meeting but may not vote.

- a) Director of Digital Transformation
- b) Chief People Officer
- c) Director of Strategy
- d) Director of Performance
- e) Director of Operations
- f) Director of Primary Care Transformation
- g) Managing Director of Hertfordshire, Bedfordshire & Luton Information, Communications, Technology (HBLICT)
- h) Board Secretariat

- 2.3.3 Observers will receive advanced copies of the notice, agenda and papers for board meetings. They may be invited to attend any or all of the board meetings, or part(s) of a meeting by the Chair. Any such person may not address the meeting and may not vote.
- 2.3.4 Participants and/or observers may be asked to leave the meeting by the Chair in the event that the board passes a resolution to exclude the public as per the standing orders.

## 3. Appointments process for the board

### 3.1 Eligibility criteria for board membership

3.1.1 Each member of the ICB must:

- a) comply with the criteria of the 'fit and proper person test'
- b) be willing to uphold the Seven Principles of Public Life (known as the Nolan Principles)
- c) fulfil the requirements relating to relevant experience, knowledge, skills and attributes set out in a role specification.

### 3.2 Disqualification criteria for board membership

3.2.1 A Member of Parliament.

3.2.2 A person whose appointment as a board member ('the candidate') is considered by the person making the appointment as one that could reasonably be regarded as undermining the independence of the health service because of the candidate's involvement with the private healthcare sector or otherwise.

3.2.3 A person who, within the period of five years immediately preceding the date of the proposed appointment, has been convicted:

- a) in the UK of any offence, or
- b) outside the UK of an offence which, if committed in any part of the UK, would constitute a criminal offence in that part, and, in either case, the final outcome of the proceedings was a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.

3.2.4 A person who is subject to a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986, Part 13 of the Bankruptcy (Scotland) Act 2016 or Schedule 2A to the Insolvency (Northern Ireland) Order 1989 (which relate to bankruptcy restrictions orders and undertakings).

3.2.5 A person who has been dismissed within the period of five years immediately preceding the date of the proposed appointment, otherwise than because of redundancy, from paid employment by any Health Service Body.

3.2.6 A person whose term of appointment as the Chair, a Member, a Director or a Governor of a Health Service Body has been terminated on the grounds:

- a) that it was not in the interests of, or conducive to the good management of, the Health Service Body or of the health service that the person should continue to hold that office
- b) that the person failed, without reasonable cause, to attend any meeting of that Health Service Body for three successive meetings
- c) that the person failed to declare a pecuniary interest or withdraw from consideration of any matter in respect of which that person had a pecuniary interest, or
- d) of misbehaviour, misconduct or failure to carry out the person's duties.

3.2.7 A Health and Care professional or other professional person who has at any time been subject to an investigation or proceedings, by any body that regulates or licenses the profession concerned ('the regulatory body'), in connection with the person's fitness to practise or any alleged fraud, the final outcome of which was:

- a) the person's suspension from a register held by the regulatory body, where that suspension has not been terminated
- b) the person's erasure from such a register, where the person has not been restored to the register
- c) a decision by the regulatory body that had the effect of preventing the person from practising the profession in question, where that decision has not been superseded, or
- d) a decision by the regulatory body that had the effect of imposing conditions on the person's practise of the profession in question, where those conditions have not been lifted.

3.2.8 A person who is subject to:

- a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002, or
- b) an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of administration order against an individual).

3.2.9 A person who has at any time been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners for England and Wales, the Charity Commission, the Charity Commission for Northern

Ireland or the High Court, on the grounds of misconduct or mismanagement in the administration of the charity for which the person was responsible, to which the person was privy, or to which the person by their conduct contributed to or facilitated.

3.2.10 A person who has at any time been removed, or is suspended, from the management or control of any body under:

- a) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(f) (powers of the Court of Session to deal with the management of charities), or
- b) section 34(5) or of the Charities and Trustee Investment (Scotland) Act 2005 (powers of the Court of Session to deal with the management of charities).

### **3.3 Chair**

3.3.1 The ICB Chair is to be appointed by NHS England, with the approval of the Secretary of State for Health and Social Care.

3.3.2 In addition to criteria specified at 3.1, this member must fulfil the following additional eligibility criteria:

- a) the Chair will be independent; and
- b) meet the requirements as set out in the ICB Chair's person specification.

3.3.3 Individuals will not be eligible if:

- a) they hold a role in another health and care organisation within the ICB area
- b) any of the disqualification criteria set out in 3.2 apply

3.3.4 The term of office for the Chair will be no more than three years and the total number of terms a Chair may serve is three terms.

### **3.4 Chief Executive**

3.4.1 The Chief Executive will be appointed by the Chair of the ICB in accordance with any guidance issued by NHS England.

3.4.2 The appointment will be subject to approval of NHS England in accordance with any procedure published by NHS England.

3.4.3 The Chief Executive must fulfil the following additional eligibility criteria:

- a) be an employee of the ICB or a person seconded to the ICB who is employed in the civil service of the State or by a body referred to in paragraph 19(4)(b) of Schedule 1B to the 2006 Act, and
- b) meets the requirements as set out in the Chief Executive person specification.

3.4.4 Individuals will not be eligible if:

- a) any of the disqualification criteria set out in 3.2 apply
- b) subject to clause 3.4.3(a), they hold any other employment or executive role

**3.5 Partner Members – NHS trusts and foundation trusts (or their successor bodies)**

3.5.1 Each Partner Member is jointly nominated by the NHS trusts and/or FTs that provide services for the purposes of the health service within the ICB's area and meet the forward plan condition or (if the forward plan condition is not met) the level of services provided condition:

- a) East and North Hertfordshire NHS Trust
- b) The Princess Alexandra Hospital NHS Trust
- c) West Hertfordshire Teaching Hospitals NHS Trust
- d) Hertfordshire Community NHS Trust
- e) Hertfordshire Partnership University NHS Foundation Trust
- f) Essex Partnership University NHS Foundation Trust
- g) Central London Community Healthcare NHS Trust
- h) East of England Ambulance Service NHS Trust

3.5.2 Each member must fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria:

- a) be a Chief Executive Officer or an Executive Director of one of the NHS trusts or foundation trusts within the ICB's area
- b) meet criteria as may be set out in any NHS England guidance
- c) as a member of the Board - consider the effect of their recommendations or proposals on the better health and wellbeing of everyone, the quality of care for all patients, and the sustainable use of NHS resources (referred to as the "Triple Aim"); and
- d) One shall have specific knowledge, skills and experience of the provision of acute services

- e) One shall have specific knowledge, skills and experience of the provision of community services
- f) One shall have specific knowledge and experience in connection with services relating to the prevention, diagnosis and treatment of mental illness.

3.5.3 Individuals will not be eligible if:

- a) any of the disqualification criteria set out in 3.2 apply
- b) any other disqualification criteria prescribed through NHS England guidance or supporting legislation apply.
- c) a conflict of interest is evident, as determined by the Chair or the ICB board appointment panel, which may result in the individual being unable to fulfil the role.

3.5.4 Each member will be appointed by an ICB board appointment panel subject to the approval of the Chair.

3.5.5 The appointment process will be as follows:

- a) Joint Nomination:
  - When a vacancy arises, each eligible organisation listed at 3.5.1.a will be invited to make one nomination per role.
  - The nomination of an individual must be seconded by one other eligible organisation outside the nominated individual's own eligible organisation.
  - Eligible organisations may nominate an individual from their own organisation or another organisation
  - All eligible organisations will be requested to confirm whether they jointly agree to nominate the whole list of nominated individuals, with a failure to confirm within seven working days being deemed to constitute agreement. This will be determined by a simple majority being in favour with a nil response being taken as assent. If they do agree, the list will be put forward to step b) below. If they do not, the nomination process will be re-run until a majority acceptance is reached on the nominations put forward.
- b) Assessment, selection and appointment subject to approval of the Chair under c):
  - The full list of nominees will be considered by a panel convened by the ICB Chief Executive Officer.

- The panel will assess the suitability of the nominees against the requirements of the role (published before the nomination process is initiated) and will confirm that nominees meet the requirements set out in clause 3.5.2 and 3.5.3
- In the event that there is more than one suitable nominee, the panel will select the most suitable for appointment.

c) Chair's approval:

- The Chair will determine whether to approve the appointment of the most suitable nominee as identified under b).

3.5.6 The term of office for each Partner Member will be two years, with a maximum of two terms being held by the same individual.

### **3.6 Partner Members – providers of primary medical services**

3.6.1 Each Partner Member is jointly nominated by providers of primary medical services for the purposes of the health service within the integrated care board's area, and that are primary medical services contract holders responsible for the provision of essential services, within core hours to a list of registered persons for whom the ICB has core responsibility.

3.6.2 The list of relevant providers of primary medical services for this purpose is published as part of the Governance Handbook. The list will be kept up to date but does not form part of this constitution.

3.6.3 This member must fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria:

- a) Be a health care professional with primary care leadership experience, who is either actively working within a provider of primary medical services or Community Pharmaceutical Services or Primary Dental Services or Primary Ophthalmic Services - operating from a main base within the geographical areas covered by the ICB, or who has done so in the ICB catchment area within a reasonable period, to ensure they are able to provide a current perspective of their sector.
- b) The post holder(s) will meet any other criteria set out in NHS England guidance or supporting legislation; and
- c) As a member of the Board - consider the effect of their recommendations or proposals on the better health and wellbeing of everyone, the quality of care

for all patients, and the sustainable use of NHS resources (referred to as the “Triple Aim”).

- d) To collectively provide different perspectives of the Hertfordshire and west Essex population.

3.6.4 Individuals will not be eligible if:

- a) Any of the disqualification criteria set out in 3.2 apply
- b) Any other disqualification criteria prescribed through NHS England guidance or supporting legislation apply.
- c) A conflict of interest is evident, as determined by the Chair or the ICB board appointment panel, which results in the individual being unable to fulfil the role.

3.6.5 This member will be appointed by an ICB board appointment panel subject to the approval of the Chair.

3.6.6 The appointment process will be as follows:

- a) Joint Nomination:
  - When a vacancy arises, each identified eligible organisation described at 3.6.1 and listed in the Governance Handbook will be invited to make one nomination per role.
  - The nomination of an individual must be seconded by one other eligible organisation outside the nominated individual’s own eligible organisation.
  - Eligible organisations may nominate individuals from their own organisation or another organisation.
  - All eligible organisations will be requested to confirm whether they jointly agree to nominate the whole list of nominated individuals, with a failure to confirm within ten working days being deemed to constitute agreement. This will be determined by a simple majority being in favour with a nil response being taken as assent. If they do agree, the list will be put forward to step b) below. If they don’t, the nomination process will be re-run until a majority acceptance is reached on the nominations put forward.
- b) Assessment, selection and appointment subject to approval of the Chair under c):

- The full list of nominees will be considered by a panel convened by the ICB Chief Executive Officer.
- The panel will assess the suitability of the nominees against the requirements of the role (published before the nomination process is initiated) and will confirm that nominees meet the requirements set out in clause 3.6.3 and 3.6.4
- In the event that there is more than one suitable nominee, the panel will select the most suitable for appointment.

c) Chair's approval:

- the Chair will determine whether to approve the appointment of the most suitable nominee as identified under b)

3.6.7 The term of office for this Partner Member is two years, with a maximum of two terms being held by the same individual.

### **3.7 Partner Members – local authorities**

3.7.1 These Partner Members are jointly nominated by the local authorities whose areas coincide with, or include the whole or any part of, the ICB's area. Those local authorities are:

- a) Essex County Council; and
- b) Hertfordshire County Council

3.7.2 This member will fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria:

- a) Be the Chief Executive or hold a relevant Executive level role of one of the bodies listed at 3.7.1.
- b) Further, the post holder(s) will meet any other criteria set out in NHS England guidance or supporting legislation; and
- c) As a member of the Board - consider the effect of their recommendations or proposals on the better health and wellbeing of everyone, the quality of care for all patients, and the sustainable use of NHS resources (referred to as the "Triple Aim").

3.7.3 Individuals will not be eligible if:

- a) Any of the disqualification criteria set out in 3.2 apply

- b) Any other disqualification criteria prescribed through NHS England guidance or supporting legislation apply.
- c) A conflict of interest is evident, as determined by the Chair or the ICB board appointment panel, which results in the individual being unable to fulfil the role.

3.7.4 This member will be appointed by an ICB appointment panel subject to the approval of the Chair.

3.7.5 The appointment process will be as follows:

a) Joint Nomination:

- When a vacancy arises, each eligible organisation listed at 3.7.1.a will be invited to make their one nomination per role.
- Eligible organisations may nominate individuals from their own organisation or another organisation.
- All eligible organisations will be requested to confirm whether they jointly agree the whole list of nominated individuals, with a failure to confirm within seven working days being deemed to constitute agreement. This will be determined by a simple majority being in favour with a nil response being taken as assent. If they do agree, the list will be put forward to step b) below. If they don't, the nomination process will be re-run until a majority agreement is reached on the nominations put forward.

b) Assessment, selection and appointment subject to approval of the Chair under c):

- If the number of nominations is equal to the number of partner member roles, there will be a confirmation process with the ICB Chair to ensure that the nominated partner member meets the criteria for board membership including the requirements of the role description and person specification and the disqualification criteria.
- In the event that there is more than one suitable nominee for each of the partner member roles, the full list of nominees will be considered by a panel convened by the Chief Executive.
- The panel will assess the suitability of the nominees against the requirements of the role (published before the nomination process is initiated) and will confirm that nominees meet the requirements set out in clause 3.7.2 and 3.7.3

- The panel will select the most suitable for appointment.

c) Chair's approval:

- The Chair of the ICB will determine the appointed Partner Member(s) and ensure they meet the requirements of the role description, personal specification, and the eligibility criteria.
- The Chair of the ICB will report the appointed Partner Member(s) to the next meeting of the ICB Board.

3.7.6 The term of office for this Partner Member is two years.

### **3.8 Medical Director**

3.8.1 This member will fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria:

- a) Be an employee of the ICB or a person seconded to the ICB who is employed in the civil service of the State or by a body referred to in paragraph 19(4)(b) of Schedule 1B to the 2006 Act
- b) Be a registered Medical Practitioner
- c) The post holder will meet any other criteria set out in NHS England guidance or supporting legislation
- d) As a member of the board - consider the effect of their recommendations or proposals on the better health and wellbeing of everyone, the quality of care for all patients, and the sustainable use of NHS resources (referred to as the "Triple Aim"); and
- e) Meet the requirements as set out in the person specification.

3.8.2 Individuals will not be eligible if:

- a) Any of the disqualification criteria set out in 3.2 apply
- b) Any other disqualification criteria prescribed through NHS England guidance or supporting legislation apply.

3.8.3 This member will be appointed by an ICB Board appointment panel subject to the approval of the Chair.

### **3.9 Director of Nursing**

3.9.1 This member will fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria:

- a) Be an employee of the ICB or a person seconded to the ICB who is employed in the civil service of the State or by a body referred to in paragraph 19(4)(b) of Schedule 1B to the 2006 Act
- b) Be a registered Nurse
- c) The post holder will meet any other criteria set out in NHS England guidance or supporting legislation
- d) As a member of the board - consider the effect of their recommendations or proposals on the better health and wellbeing of everyone, the quality of care for all patients, and the sustainable use of NHS resources (referred to as the “Triple Aim”)
- e) Be a qualified Nurse with full membership and evidence of up-to-date continuing professional development; and
- f) Meet the requirements as set out in the Director of Nursing person specification

3.9.2 Individuals will not be eligible if:

- a) Any of the disqualification criteria set out in 3.2 apply
- b) Any other disqualification criteria prescribed through NHS England guidance or supporting legislation apply.

3.9.3 This member will be appointed by an ICB Board appointment panel subject to the approval of the Chair.

### **3.10 Chief Finance Officer**

3.10.1 This member will fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria:

- a) Be an employee of the ICB or a person seconded to the ICB who is employed in the civil service of the State or by a body referred to in paragraph 19(4)(b) of Schedule 1B to the 2006 Act
- b) The post holder will meet any other criteria set out in NHS England guidance or supporting legislation
- c) As a member of the board - consider the effect of their recommendations or proposals on the better health and wellbeing of everyone, the quality of care for all patients, and the sustainable use of NHS resources (referred to as the “Triple Aim”)
- d) Be a qualified accountant with full membership and evidence of up-to-date continuing professional development; and

- e) Meet the requirements as set out in the Chief Finance Officer person specification.

3.10.2 Individuals will not be eligible if:

- a) Any of the disqualification criteria set out in 3.2 apply
- b) Any other disqualification criteria prescribed through NHS England guidance or supporting legislation apply.

3.10.3 This member will be appointed by an ICB board appointment panel subject to the approval of the Chair.

### **3.11 Five Non-executive Members**

3.11.1 The ICB will appoint five Non-executive Members.

3.11.2 These members will be appointed by an ICB board appointment panel subject to the approval of the Chair.

3.11.3 These members will fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria:

- a) Not be employee of the ICB or a person seconded to the ICB
- b) Not hold a role in another health and care organisation in the ICS area
- c) One shall have specific knowledge, skills and experience that makes them suitable for appointment to the Chair of the Audit Committee
- d) Another should have specific knowledge, skills and experience that makes them suitable for appointment to the Chair of the Remuneration Committee
- e) One member should have specific knowledge, skills and experience that makes them suitable to take the role of a senior Non-executive member and take a lead role in the appraisal of the Chair. This may not be the Chair of the Audit Committee.
- f) The post holder(s) will meet any other criteria set out in NHS England guidance or supporting legislation.
- g) As a member of the Board - consider the effect of their recommendations or proposals on the better health and wellbeing of everyone, the quality of care for all patients, and the sustainable use of NHS resources (referred to as the “Triple Aim”); and
- h) Meet the requirements as set out in the Non-Executive Member person specification.

3.11.4 Individuals will not be eligible if:

- a) Any of the disqualification criteria set out in 3.2 apply
- b) They hold a role in another health and care organisation within the ICB area
- c) Any other disqualification criteria prescribed through NHS England guidance or supporting legislation apply.

3.11.5 The term of office for a Non-executive Member will be three years and the total number of terms an individual may serve is two terms, after which they will no longer be eligible for re-appointment.

3.11.6 Initial appointments may be for a shorter period to avoid all Non-executive Members retiring at once. Thereafter, new appointees will ordinarily retire on the date that the individual they replaced was due to retire, to provide continuity.

3.11.7 Subject to the identified individual receiving a satisfactory appraisal and eligibility criteria identified in paragraphs 3.11.3 and 3.11.4 continuing to be met, the Chair may approve the re-appointment of a Non-executive Member up to the maximum number of terms permitted for their role.

## **3.12 Other Board Members**

### **3.12.1 Voluntary, Community, Faith and Social Enterprise (VCFSE) Alliance Board Member**

3.12.1.1 This member is nominated by the Hertfordshire and West Essex VCFSE Alliance.

3.12.1.2 This member will fulfil the eligibility criteria set out at 3.1 and also the following additional eligibility criteria:

- a) Be the Chief Executive or hold a relevant Executive level role in one of the VCFSE sector legal entities in Hertfordshire and West Essex; and
- b) Any criteria set out in NHS England's guidance from time to time

3.12.1.3 Individuals will not be eligible if

- a) Any of the disqualification criteria set out in 3.2 apply; and

- b) any criteria as set out in NHS England guidance applies.
- 3.12.1.4 This member will be appointed by a panel subject to the approval of the Chair.
- 3.12.1.5 The appointment process will be as follows:
  - a) Nomination:
    - The nomination will be received from the VCFSE Alliance.
  - b) Appointment:
    - This member will be appointed by the ICB Chief Executive, subject to approval of the ICB Chair.
- 3.12.1.6 The term of office for the VCFSE Member will be two years – with a maximum of two terms being held by the same individual.

### **3.13 Board Members: Removal from Office**

- 3.13.1 Arrangements for the removal from office of board members is subject to the term of appointment, and application of the relevant ICB policies and procedures.
- 3.13.2 With the exception of the Chair, board members shall be removed from office if any of the following occur:
  - a) If they fail to attend a minimum of 75% of the meetings to which they are invited unless agreed with the Chair in extenuating circumstances
  - b) If they are deemed to not meet the expected standards of performance at their annual appraisal
  - c) If they have behaved in a manner or exhibited conduct which has or is likely to be detrimental to the honour and interest of the ICB and is likely to bring the ICB into disrepute. This includes but it is not limited to dishonesty; misrepresentation (either knowingly or fraudulently); defamation of any member of the ICB's (being slander or libel); abuse of position; non-declaration of a known conflict of interest; seeking to manipulate a decision

of the ICB in a manner that would ultimately be in favour of that member whether financially or otherwise

- d) Are deemed to have failed to uphold the Nolan Principles of Public Life
- e) Have had a finding upheld by a regulator or professional body or are subject to disciplinary proceedings.

3.13.3 Members may be suspended pending the outcome of an investigation into whether any of the matters in 3.13.2 apply.

3.13.4 Executive Directors (including the Chief Executive) will cease to be board members if their employment in their specified role ceases, regardless of the reason for termination of the employment.

3.13.5 The Chair of the ICB may be removed by NHS England, subject to the approval of the Secretary of State for Health and Social Care.

3.13.6 If NHS England is satisfied that the ICB is failing or has failed to discharge any of its functions or that there is a significant risk that the ICB will fail to do so, it may:

- a) terminate the appointment of the ICB's Chief Executive, and
- b) direct the Chair of the ICB as to which individual to appoint as a replacement and on what terms.

### **3.14 Terms of appointment of Board Members**

3.14.1 With the exception of the Chair and Non-executive Members, arrangements for remuneration and any allowances will be agreed by the Remuneration Committee in line with the ICB remuneration policy and any other relevant policies published in the Governance Handbook and any guidance issued by NHS England or other relevant body. Remuneration for Chairs will be set by NHS England. Remuneration for Non-executive Members will be set by a Non-executive Member remuneration panel, as set out in the Governance Handbook.

3.14.2 Other terms of appointment will be determined by the Remuneration Committee and Agenda for Change.

3.14.3 Terms of appointment of the Chair will be determined by NHS England.

### **3.15 Specific arrangements for appointment of Ordinary Members made at establishment**

- 3.15.1 Individuals may be identified as 'designate Ordinary Members' prior to the ICB being established.
- 3.15.2 Relevant nomination procedures for Partner Members in advance of establishment are deemed to be valid so long as they are undertaken in full and in accordance with the provisions of 3.5 to 3.7.
- 3.15.3 Any appointment and assessment processes undertaken in advance of establishment to identify designate Ordinary Members should follow, as far as possible, the processes set out in sections 3.5 to 3.12 of this Constitution. However, a modified process, agreed by the Chair, will be considered valid.
- 3.15.4 On the day of establishment, a committee consisting of the Chair, Chief Executive and Chief People Officer will appoint the Ordinary Members who are expected to all be individuals who have been identified as designate appointees prior to ICB establishment and the Chair will approve those appointments.
- 3.15.5 For the avoidance of doubt, this clause is valid only in relation to the appointments of the initial Ordinary Members and all appointments post establishment will be made in accordance with clauses 3.5 to 3.12.

## 4. Arrangements for the exercise of our functions

### 4.1 Good governance

- 4.1.1 The ICB will, at all times, observe generally accepted principles of good governance. This includes the Seven Principles of Public Life (the Nolan Principles) and any governance guidance issued by NHS England.
- 4.1.2 The ICB has agreed a Code of Conduct and Behaviours, which sets out the expected behaviours that members of the board and its committees will uphold while undertaking ICB business. It also includes a set of principles that will guide decision-making in the ICB. The ICB Standards of Business Conduct Policy (Incorporating Conflicts of Interest) is published in the Governance Handbook.

### 4.2 General

- 4.2.1 The ICB will:
  - a) comply with all relevant laws including but not limited to the 2006 Act and the duties prescribed within it and any relevant regulations
  - b) comply with directions issued by the Secretary of State for Health and Social Care
  - c) comply with directions issued by NHS England
  - d) have regard to statutory guidance including that issued by NHS England
  - e) take account, as appropriate, of other documents, advice and guidance issued by relevant authorities, including that issued by NHS England
  - f) respond to reports and recommendations made by local Healthwatch organisations within the ICB area.
- 4.2.2 The ICB will develop and implement the necessary systems and processes to comply with a)–f) above, documenting them as necessary in this Constitution, its Governance Handbook and other relevant policies and procedures as appropriate.

### 4.3 Authority to act

- 4.3.1 The ICB is accountable for exercising its statutory functions and may grant authority to act on its behalf to:

- a) any of its members or employees
- b) a committee or sub-committee of the ICB.

4.3.2 Under section 65Z5 of the 2006 Act, the ICB may arrange with another ICB, an NHS trust, NHS foundation trust, NHS England, a local authority, combined authority or any other body prescribed in Regulations, for the ICB's functions to be exercised by or jointly with that other body or for the functions of that other body to be exercised by or jointly with the ICB. Where the ICB and other body enters such arrangements, they may also arrange for the functions in question to be exercised by a joint committee of theirs and/or for the establishment of a pooled fund to fund those functions (section 65Z6). In addition, under section 75 of the 2006 Act, the ICB may enter partnership arrangements with a local authority under which the local authority exercises specified ICB functions or the ICB exercises specified local authority functions, or the ICB and local authority establish a pooled fund.

4.3.3 Where arrangements are made under section 65Z5 or section 75 of the 2006 Act, the board must authorise the arrangement, which must be described as appropriate in the SoRD.

#### **4.4 Scheme of Reservation and Delegation**

4.4.1 The ICB has agreed a Scheme of Reservation and Delegation (SoRD), which is published in full within the Governance Handbook.

4.4.2 Only the board may agree the SoRD and amendments to the SoRD may only be approved by the board.

4.4.3 The SoRD sets out:

- a) those functions that are reserved to the board
- b) those functions that have been delegated to an individual or to committees and sub-committees
- c) those functions delegated to another body or to be exercised jointly with another body, under section 65Z5 and 65Z6 of the 2006 Act.

4.4.4 The ICB remains accountable for all of its functions, including those that it has delegated. All those with delegated authority are accountable to the board for the exercise of their delegated functions.

## **4.5 Functions and Decision Map**

4.5.1 The ICB has prepared a Functions and Decision Map that sets out at a high level its key functions and how it exercises them in accordance with the SoRD.

4.5.2 The Functions and Decision Map is published within the Governance Handbook.

4.5.3 The map includes:

- a) key functions reserved to the board of the ICB
- b) commissioning functions delegated to committees and individuals
- c) commissioning functions delegated under section 65Z5 and 65Z6 of the 2006 Act to be exercised by, or with, another ICB, an NHS trust, NHS foundation trust, local authority, combined authority or any other prescribed body
- d) functions delegated to the ICB (eg from NHS England).

## **4.6 Committees and sub-committees**

4.6.1 The ICB may appoint committees and arrange for its functions to be exercised by such committees. Each committee may appoint sub-committees and arrange for the functions exercisable by the committee to be exercised by those sub-committees.

4.6.2 All committees and sub-committees are listed in the SoRD.

4.6.3 Each committee and sub-committee established by the ICB operates under terms of reference agreed by the board. All terms of reference are published in the Governance Handbook.

4.6.4 The board remains accountable for all functions, including those that it has delegated to committees and sub-committees and, therefore, appropriate reporting and assurance arrangements are in place and documented in the terms of reference. All committees and sub-committees that fulfil delegated functions of the ICB, will be required to:

- a) Provide a written report to every board meeting. At each meeting of the board, the Chair of the committee will present a short report in writing which highlights key matters.
- b) Further, the Audit Committee Chair may also request an Executive lead attend the Audit Committee to discuss significant risks or matters of issue arising from internal audit reports in greater detail.

- 4.6.5 Any committee or sub-committee established in accordance with clause 4.6 may consist of, or include, persons who are not ICB members or employees.
- 4.6.6 All members of committees and sub-committees that exercise the ICB commissioning functions will be appointed or approved by the Chair. The Chair will not appoint or approve an individual to such a committee or sub-committee if they consider that the appointment could reasonably be regarded as undermining the independence of the health service because of the candidate's involvement with the private healthcare sector or otherwise
- 4.6.7 All members of committees and sub-committees are required to act in accordance with this constitution, including the Standing Orders as well as the Standing Financial Instructions and any other relevant ICB policy.
- 4.6.8 The following committees will be maintained:
- a) **Audit Committee:** This committee is accountable to the board and provides an independent and objective view of the ICB's compliance with its statutory responsibilities. The committee is responsible for arranging appropriate internal and external audit.  
  
The Audit Committee will be chaired by a Non-executive Member (other than the Chair of the ICB) who has the qualifications, expertise or experience to enable them to express credible opinions on finance and audit matters.
  - b) **Remuneration Committee:** This committee is accountable to the board for matters relating to remuneration, fees and other allowances (including pension schemes) for employees and other individuals who provide services to the ICB.  
  
The Remuneration Committee will be chaired by a Non-executive Member other than the Chair or the Chair of Audit Committee.
- 4.6.9 The terms of reference for each of the above committees are published in the Governance Handbook.
- 4.6.10 The board has also established a number of other committees to assist it with the discharge of its functions. These committees are set out in the SoRD and further information about these committees, including terms of reference, are published in the Governance Handbook.

## **4.7 Delegations made under section 65Z5 of the 2006 Act**

- 4.7.1 As per 4.3.2 the ICB may arrange for any functions exercisable by it to be exercised by or jointly with any one or more other relevant bodies (another ICB, NHS England, an NHS trust, NHS foundation trust, local authority, combined authority or any other prescribed body).
- 4.7.2 All delegations made under these arrangements are set out in the ICB Scheme of Reservation and Delegation and included in the Functions and Decision Map.
- 4.7.3 Each delegation made under section 65Z5 of the Act will be set out in a delegation arrangement that sets out the terms of the delegation. This may, for joint arrangements, include establishing and maintaining a pooled fund. The power to approve delegation arrangements made under this provision will be reserved to the board.
- 4.7.4 The board remains accountable for all the ICB's functions, including those that it has delegated and, therefore, appropriate reporting and assurance mechanisms are in place as part of agreeing terms of a delegation and these are detailed in the delegation arrangements, summaries of which will be published in the Governance Handbook.
- 4.7.5 In addition to any formal joint working mechanisms, the ICB may enter into strategic or other transformation discussions with its partner organisations on an informal basis.

## 5. Procedures for making decisions

### 5.1 Standing Orders

- 5.1.1 The ICB has agreed a set of standing orders which describe the processes that are employed to undertake its business. They include procedures for:
- conducting the business of the ICB
  - the procedures to be followed during meetings
  - the process to delegate functions.
- 5.1.2 The Standing Orders apply to all committees and sub-committees of the ICB unless specified otherwise in the terms of reference that have been agreed by the board.
- 5.1.3 A full copy of the Standing Orders is included in Appendix 2 and form part of this Constitution.

### 5.2 Standing Financial Instructions

- 5.2.1 The ICB has agreed a set of Standing Financial Instructions (SFIs), which include the delegated limits of financial authority set out in the SoRD.
- 5.2.2 A copy of the SFIs is published in the Governance Handbook.

## 6. Arrangements for conflict of interest management and standards of business conduct

### 6.1 Conflicts of Interest

- 6.1.1 As required by section 14Z30 of the 2006 Act, the ICB has made arrangements to manage any actual and potential conflicts of interest to ensure that decisions made by the ICB will be taken and seen to be taken without being unduly influenced by external or private interest and do not (and do not risk appearing to) affect the integrity of the ICB's decision-making processes.
- 6.1.2 The ICB has agreed policies and procedures for the identification and management of conflicts of interest which are published in the Governance Handbook.
- 6.1.3 All board, committee and sub-committee members, and employees of the ICB, will comply with the ICB policy on conflicts of interest in line with their terms of office and/or employment. This will include but not be limited to declaring all interests on a register that will be maintained by the ICB.
- 6.1.4 All delegation arrangements made by the ICB under section 65Z5 of the 2006 Act will include a requirement for transparent identification and management of interests and any potential conflicts in accordance with suitable policies and procedures comparable with those of the ICB.
- 6.1.5 Where an individual, including any individual directly involved with the business or decision-making of the ICB and not otherwise covered by one of the categories above, has an interest, or becomes aware of an interest that could lead to a conflict of interests in the event of the ICB considering an action or decision in relation to that interest, that must be considered as a potential conflict, and is subject to the provisions of this Constitution and the ICB's Standards of Business Conduct Policy (incorporating conflicts of interest).
- 6.1.6 The ICB has appointed the Audit Chair to be the Conflicts of Interest Guardian. In collaboration with the ICB's governance lead, their role is to:

- a) Act as a conduit for members of the public and members of the partnership who have any concerns with regards to conflicts of interest
- b) Be a safe point of contact for employees or workers to raise any concerns in relation to conflicts of interest
- c) Support the rigorous application of conflict of interest principles and policies
- d) Provide independent advice and judgement to staff and members where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation
- e) Provide advice on minimising the risks of conflicts of interest.

## **6.2 Principles**

6.2.1 In discharging its functions, the ICB will abide by the following principles:

- a) All applicants for any position within the ICB (as either a worker under a contract for service arrangement or an employee) will be required as part of the recruitment process to declare any relevant interests.
- b) When an individual changes role or responsibility within the ICB, any change to the individual's interests should be declared immediately or within 28 days at the latest, indicating the date the change took effect.
- c) Whenever an individual's circumstances change in a way that affects the ICB or sets up a new business or relationship, a further declaration may need to be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising.
- d) All individuals are required to declare their interests in relation to any items on meeting Agendas. For meetings of the Board or its Committees individuals are required to declare those interests in advance

## **6.3 Declaring and registering interests**

6.3.1 The ICB maintains registers of the interests of:

- a) Members of the ICB
- b) Members of the board's committees and sub-committees
- c) Its employees and workers; and
- d) Any other relevant individuals whose declarations would support the openness and transparency of this Board.

6.3.2 In accordance with section 14Z30(2) of the 2006 Act, registers of interest are published on the ICB website at [www.hertsandwestessexics.org.uk](http://www.hertsandwestessexics.org.uk)

6.3.3 All relevant persons as per 6.1.3 and 6.1.5 must declare any conflict or potential conflict of interest relating to decisions to be made in the exercise of the ICB's commissioning functions.

6.3.4 Declarations should be made as soon as reasonably practicable after the person becomes aware of the conflict or potential conflict and in any event within 28 days. This could include interests an individual is pursuing. Interests will also be declared prior to appointment and during relevant discussion in meetings.

6.3.5 All declarations will be entered in the registers as per 6.3.1

6.3.6 The ICB will ensure that, as a matter of course, declarations of interest are made and confirmed, or updated at least annually.

6.3.7 Interests (including gifts and hospitality) of decision-making staff will remain on the public register for a minimum of six months. In addition, the ICB will retain a record of historical interests and offers/receipt of gifts and hospitality for a minimum of six years after the date on which it expired. The ICB's published register of interests states that historical interests are retained by the ICB for the specified timeframe and details who to contact to submit a request for this information.

6.3.8 Activities funded in whole or in part by third parties who may have an interest in ICB business such as sponsored events, posts and research will be managed in accordance with the ICB policy to ensure transparency and that any potential for conflicts of interest are well-managed.

## **6.4 Standards of business conduct**

6.4.1 Board members, employees, committee and sub-committee members of the ICB will at all times comply with this Constitution and be aware of their responsibilities as outlined in it. They should:

- a) act in good faith and in the interests of the ICB
- b) follow the Seven Principles of Public Life; set out by the Committee on Standards in Public Life (the Nolan Principles)
- c) comply with the ICB's Standards of Business Conduct Policy (Incorporating Conflicts of Interest).

6.4.2 Individuals contracted to work on behalf of the ICB or otherwise providing services or facilities to the ICB will be made aware of their obligation to declare conflicts or potential conflicts of interest. This requirement will be written into their contract for services and is also outlined in the ICB's Standards of Business Conduct Policy (Incorporating Conflicts of Interest).

## 7. Arrangements for ensuring Accountability and Transparency

7.1.1 The ICB will demonstrate its accountability to local people, stakeholders and NHS England in a number of ways, including by upholding the requirement for transparency in accordance with paragraph 12(2) of Schedule 1B to the 2006 Act.

### 7.2 Principles

7.2.1 Please refer to paragraph 6.2 above.

### 7.3 Meetings and publications

7.3.1 Board meetings, and committees composed entirely of board members or that include all board members, will be held in public except where a resolution is agreed to exclude the public on the grounds that it is believed not to be in the public interest.

7.3.2 Papers and minutes of all meetings held in public will be published.

7.3.3 Annual accounts will be externally audited and published.

7.3.4 A clear complaints process will be published.

7.3.5 The ICB will comply with the Freedom of Information Act 2000 and with the Information Commissioner Office requirements regarding the publication of information relating to the ICB.

7.3.6 Information will be provided to NHS England as required.

7.3.7 The Constitution and Governance Handbook will be published as well as other key documents including but not limited to:

- Standards of Business Conduct Policy (Incorporating Conflicts of Interest)
- registers of interests
- key policies (please see paragraph 1.7.3(d) above)

7.3.8 The ICB will publish, with its partner NHS trusts and NHS foundation trusts, a plan at the start of each financial year that sets out how the ICB proposes to

exercise its functions during the next five years. The plan will explain how the ICB proposes to discharge its duties under the 2006 Act:

- Sections 14Z34 to 14Z45 (general duties of integrated care boards), and
  - sections 223GB and 223N (financial duties)
- and
- a) proposed steps to implement Hertfordshire's Health and Wellbeing Strategy, and Essex's Health and Wellbeing Strategy,
  - b) proposed steps to address the particular needs of victims of abuse (including domestic abuse and sexual abuse, whether of children and adults), and
  - c) the Integrated Care Partnership's (ICP's) Integrated Care Strategy

## **7.4 Scrutiny and decision-making**

- 7.4.1 At least three Non-executive Members will be appointed to the board, including the Chair; and all the board and committee members will comply with the Seven Principles of Public Life (the Nolan Principles) and meet the criteria described in the fit and proper person test.
- 7.4.2 Healthcare services will be arranged in a transparent way, and decisions around who provides services will be made in the best interests of patients, taxpayers and the population, in line with the rules set out in the NHS Provider Selection Regime.
- 7.4.3 The ICB will comply with the requirements of the NHS Provider Selection Regime, including:
  - a) Complying with existing procurement rules until the provider selection regime comes into effect.
- 7.4.4 The ICB will comply with the local authority health overview and scrutiny requirements of Essex County Council and Hertfordshire County Council.

## **7.5 Annual Report**

- 7.5.1 The ICB will publish an Annual Report in accordance with any guidance published by NHS England; and that sets out how it has discharged its functions and fulfilled its duties in the previous financial year. An annual report must in particular:

- a) explain how the ICB has discharged its duties under section 14Z34 to 14Z45 and 14Z49 (general duties of integrated care boards)
- b) review the extent to which the ICB has exercised its functions in accordance with the plans published under section 14Z52 (forward plan) and section 14Z56 (capital resource use plan)
- c) review the extent to which the ICB has exercised its functions consistently with NHS England's views set out in the latest statement published under section 13SA(1) (views about how functions relating to inequalities information should be exercised), and
- d) review any steps that the ICB has taken to implement any joint local health and wellbeing strategy to which it was required to have regard under section 116B(1) of the Local Government and Public Involvement in Health Act 2007.

## 8. Arrangements for Determining the Terms and Conditions of Employees

- 8.1.1 The ICB may appoint employees, pay them remuneration and allowances as it determines, and appoint staff on such terms and conditions as it determines.
- 8.1.2 The board has established a Remuneration Committee, which is chaired by a Non-executive Member other than the Chair or Audit Chair.
- 8.1.3 The membership of the Remuneration Committee is determined by the board. No employees may be a member of the Remuneration Committee, but the board ensures that the Remuneration Committee has access to appropriate advice by:
  - a) The Executive with responsibility for organisational development and workforce, and the Governance lead will attend as regular participants.
- 8.1.4 The board may appoint independent members or advisers to the Remuneration Committee who are not members of the board.
- 8.1.5 The main purpose of the Remuneration Committee is to exercise the functions of the ICB regarding remuneration included in paragraphs 18 to 20 of Schedule 1B to the 2006 Act. The terms of reference agreed by the board are published in the Governance Handbook.
- 8.1.6 The duties of the Remuneration Committee include:
  - a) Setting the ICB pay policy (or equivalent) and standard terms and conditions
  - b) Making arrangements to pay employees such remuneration and allowances as it may determine
  - c) Setting remuneration and allowances for members of the Board
  - d) Setting any allowances for members of committees or sub-committees (of the ICB) who are not members of the Board
  - e) Any other relevant duties
- 8.1.7 The ICB may make arrangements for a person to be seconded to serve as a member of the ICB's staff.

## 9. Arrangements for Public Involvement

9.1.1 In line with section 14Z45(2) of the 2006 Act, the ICB has made arrangements to secure that individuals to whom services that are, or are to be, provided pursuant to arrangements made by the ICB in the exercise of its functions, and their carers and representatives, are involved (whether by being consulted or provided with information or in other ways) in:

- a) the planning of the commissioning arrangements by the ICB
- b) the development and consideration of proposals by the ICB for changes in the commissioning arrangements where the implementation of the proposals would have an impact on the manner in which the services are delivered to the individuals (at the point when the service is received by them), or the range of health services available to them
- c) decisions of the ICB affecting the operation of the commissioning arrangements where the implementation of the decisions would (if made) have such an impact.

9.1.2 In line with section 14Z54 of the 2006 Act, the ICB has made the following arrangements to consult its population on its system plan:

- a) Please refer to paragraph 1.7.3(e) above.

9.1.3 The ICB has adopted the 10 principles set out by NHS England for working with people and communities:

- a) put the voices of people and communities at the centre of decision-making and governance, at every level of the ICS
- b) start engagement early when developing plans, and feed back to people and communities how it has influenced activities and decisions
- c) understand your community's needs, experience and aspirations for health and care, using engagement to find out if change is having the desired effect
- d) build relationships with excluded groups – especially those affected by inequalities
- e) work with Healthwatch and the voluntary, community and social enterprise sector (VCSE) as key partners
- f) provide clear and accessible public information about vision, plans and progress to build understanding and trust

- g) use community development approaches that empower people and communities, making connections to social action
- h) use co-production, insight and engagement to achieve accountable health and care services
- i) co-produce and redesign services and tackle system priorities in partnership with people and communities
- j) learn from what works and build on the assets of all partners in the ICS – networks, relationships, activity in local places.

9.1.4 In addition, the ICB has set out any further detail regarding public involvement in its Patient and Public Engagement Strategy, referenced at paragraph 1.7.3 (e) above.

9.1.5 These principles will be used when developing and maintaining arrangements for engaging with people and communities.

# Appendix 1: Definitions of terms used in this Constitution

<b>2006 Act</b>	National Health Service Act 2006, as amended by the Health and Social Care Act 2012 and the Health and Care Act 2022.
<b>ICB board</b>	Members of the ICB.
<b>Agenda for Change</b>	Agenda for Change (AfC) is the National Health Service (NHS) grading and pay system for NHS staff.
<b>Area</b>	The geographical area that the ICB has responsibility for, as defined in part 2 of this Constitution.
<b>Committee</b>	A committee created and appointed by the ICB board.
<b>Sub-committee</b>	A committee created and appointed by and reporting to a committee.
<b>Integrated Care Partnership</b>	The joint committee for the ICB's area established by the ICB and each responsible local authority whose area coincides with or falls wholly or partly within the ICB's area.
<b>Place-based partnership</b>	Place-based partnerships are collaborative arrangements responsible for arranging and delivering health and care services in a locality or community. They involve the ICB, local government, and providers of health and care services, including the VCFSE sector, people and communities, as well as primary care provider leadership, represented by Primary Care Network Clinical Directors or other relevant primary care leaders.
<b>Ordinary Member</b>	The board of the ICB will have a Chair and a Chief Executive plus other members. All other members of the board are referred to as Ordinary Members.
<b>Partner Members</b>	Some of the Ordinary Members will also be Partner Members - this is an NHS England term, and is not defined in the 2022 Act. Partner Members bring knowledge and a perspective from their sectors and are appointed in accordance with the procedures set out in section 3 having been nominated by the following: <ul style="list-style-type: none"> <li>• NHS trusts and foundation trusts that provide services within the ICB's area and are of a prescribed description</li> <li>• the primary medical services (general practice) providers within the area of the ICB and are of a prescribed description</li> </ul>

	<ul style="list-style-type: none"> <li>the local authorities that are responsible for providing social care and whose areas coincide with or include the whole or any part of the ICB's area.</li> </ul>
<b>Health Care Professional</b>	Definition as per Health and Social Care Act 2012, Part 1, Chapter A2, section 14N (6): "Health Care Professional" means an individual who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professional Act 2002.
<b>Health Service Body</b>	Health Service Body as defined by (a) section 9(4) of the NHS Act 2006 or (b) NHS foundation trusts.
<b>HBLICT</b>	Hertfordshire, Bedfordshire & Luton ICT Services (hosted by Hertfordshire and West Essex ICB)
<b>VCFSE</b>	Voluntary, Community, Faith and Social Enterprise

# Appendix 2: Standing Orders

## **1. Introduction**

- 1.1. These Standing Orders have been drawn up to regulate the proceedings of NHS Hertfordshire and West Essex Integrated Care Board so that the ICB can fulfil its obligations as set out largely in the 2006 Act (as amended). They form part of the ICB's Constitution.

## **2. Amendment and review**

- 2.1. The Standing Orders are effective from 1<sup>st</sup> July 2022.
- 2.2. Standing Orders will be reviewed on an annual basis or sooner if required.
- 2.3. Amendments to these Standing Orders will be made as per paragraph 1.6 of this Constitution.
- 2.4. All changes to these Standing Orders will require an application to NHS England for variation to the ICB Constitution and will not be implemented until the Constitution has been approved.

## **3. Interpretation, application and compliance**

- 3.1. Except as otherwise provided, words and expressions used in these Standing Orders shall have the same meaning as those in the main body of the ICB Constitution and as per the definitions in Appendix 1.
- 3.2. These Standing Orders apply to all meetings of the board, including its committees and sub-committees unless otherwise stated. All references to board are inclusive of committees and sub-committees unless otherwise stated.
- 3.3. All members of the board, members of committees and sub-committees and all employees, should be aware of the Standing Orders and comply with them. Failure to comply may be regarded as a disciplinary matter.
- 3.4. In the case of conflicting interpretation of the Standing Orders, the Chair, supported with advice from the Chief of Staff, will provide a settled view, which shall be final.

- 3.5. All members of the board, its committees and sub-committees and all employees have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive as soon as possible.
- 3.6. If, for any reason, these Standing Orders 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 board for action or ratification and the Audit Committee for review.

## **4. Meetings of the Integrated Care Board**

### **4.1. Calling Board Meetings**

- 4.1.1. Meetings of the board of the ICB shall be held at regular intervals at such times and places as the ICB may determine.
- 4.1.2. In normal circumstances, each member of the board will be given not less than one month's notice in writing of any meeting to be held. However:
  - a) The Chair may call a meeting at any time by giving not less than 14 calendar days' notice in writing.
  - b) One-third of the members of the board may request the Chair to convene a meeting by notice in writing, specifying the matters which they wish to be considered at the meeting. If the Chair refuses, or fails, to call a meeting within seven calendar days of such a request being presented, the board members signing the requisition may call a meeting by giving not less than 14 calendar days' notice in writing to all members of the board specifying the matters to be considered at the meeting.
  - c) In emergency situations the Chair may call a meeting with two days' notice by setting out the reason for the urgency and the decision to be taken.
- 4.1.3. A public notice of the time and place of meetings to be held in public and how to access the meeting shall be given by posting it at the offices of the ICB body and electronically at least three clear days before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened.
- 4.1.4. The agenda and papers for meetings to be held in public will be published electronically in advance of the meeting, excluding, if thought fit, any item likely to be addressed in part of a meeting that is not likely to be open to the public.

## **4.2. Chair of a meeting**

- 4.2.1. The Chair of the ICB shall preside over meetings of the board.
- 4.2.2. If the Chair is absent or is disqualified from participating by a conflict of interest, the Deputy Chair shall preside.
- 4.2.3. The board shall appoint a Chair to all committees and sub-committees that it has established. The appointed committee or sub-committee Chair will preside over the relevant meeting. Terms of reference for committees and sub-committees will specify arrangements for occasions when the appointed Chair is absent.

## **4.3. Agenda, supporting papers and business to be transacted**

- 4.3.1. The agenda for each meeting will be drawn up and agreed by the Chair of the meeting.
- 4.3.2. Except where the emergency provisions apply, supporting papers for all items must be submitted at least seven calendar days before the meeting takes place. The agenda and supporting papers will be circulated to all members of the board at least five calendar days before the meeting.
- 4.3.3. Agendas and papers for meetings open to the public, including details about meeting dates, times and venues, will be published on the ICB's website [www.hertsandwestessexics.org.uk](http://www.hertsandwestessexics.org.uk)

## **4.4. Petitions**

- 4.4.1. Where a valid petition has been received by the ICB it shall be included as an item for the agenda of the next meeting of the board in accordance with the ICB policy as published in the Governance Handbook.

## **4.5. Nominated Deputies**

- 4.5.1. With the permission of the person presiding over the meeting, the Executive Directors and the Partner Members of the board may nominate a deputy to attend a meeting of the board that they are unable to attend. The deputy may speak but not vote on their behalf.
- 4.5.2. The decision of the person presiding over the meeting regarding authorisation of nominated deputies is final.

## **4.6. Virtual attendance at meetings**

- 4.6.1. The board of the ICB and its committees and sub-committees may meet virtually using telephone, video and other electronic means when necessary, unless the terms of reference prohibit this.

## **4.7. Quorum**

- 4.7.1. The quorum for meetings of the board will be met when at least 50% of the members are present, which includes:
- a) either the Chief Executive or the Chief Finance Officer
  - b) either the Medical Director or the Director of Nursing
  - c) at least two independent members (i.e. Non-executive Members)
  - d) at least three Partner Members (comprising of at least one Partner Member from each of the categories listed at 2.2.1 (a), (b) and (c) (referenced above at page 13)).
- 4.7.2. For the sake of clarity:
- a) no person can act in more than one capacity when determining the quorum
  - b) an individual who has been disqualified from participating in a discussion on any matter and/or from voting on any motion by reason of a declaration of a conflict of interest shall no longer count towards the quorum.
- 4.7.3. For all committees and sub-committees, the details of the quorum for these meetings and status of deputies are set out in the appropriate terms of reference.
- 4.7.4. If the board meeting is not quorate the ICB members present may discuss items of business, but no decisions may be taken until such a time that the meeting is quorate.
- 4.7.5. Where it would be more appropriate and/or better to manage conflicts of interest, the board may at its absolute discretion require one of its committees or sub-committees to consider an item or items of business and make decisions on its behalf.

## **4.8. Vacancies and defects in appointments**

- 4.8.1. The validity of any act of the ICB is not affected by any vacancy among members or by any defect in the appointment of any member.
- 4.8.2. In the event of vacancy or defect in appointment the following temporary arrangement for quorum will apply:
  - a) For a limited period, the number of board members against which at least 50% quoracy is calculated, will be reduced by one per vacancy.

## **4.9. Decision-making**

- 4.9.1. The ICB has agreed to use a collective model of decision-making that seeks to find consensus between system partners and make decisions based on unanimity as the norm, including working through difficult issues where appropriate.
- 4.9.2. Generally it is expected that decisions of the ICB will be reached by consensus. Should this not be possible then a vote will be required. The process for voting, which should be considered a last resort, is set out below:
  - a) All members of the board who are present at the meeting will be eligible to cast one vote each.
  - b) In no circumstances may an absent member vote by proxy. Absence is defined as being absent at the time of the vote, but this does not preclude anyone attending by teleconference or other virtual mechanism from participating in the meeting, including exercising their right to vote if eligible to do so.
  - c) For the sake of clarity, any additional Participants and Observers (as detailed within paragraph 5.6. of the Constitution) will not have voting rights.
  - d) A resolution will be passed if more votes are cast for the resolution than against it.
  - e) If an equal number of votes are cast for and against a resolution, then the Chair (or in their absence, the person presiding over the meeting) will have a second and casting vote.
  - f) Should a vote be taken, the outcome of the vote, and any dissenting views, must be recorded in the minutes of the meeting.

## Disputes

4.9.3. Where helpful, the board may draw on third-party support to assist them in resolving any disputes, such as peer review or support from NHS England.

## Urgent decisions

4.9.4. In the case of urgent decisions and extraordinary circumstances, every attempt will be made for the board to meet virtually. Where this is not possible the following will apply:

4.9.5. The powers that are reserved or delegated to the board may for an urgent decision be exercised by the Chair and Chief Executive (or relevant lead director in the case of committees), subject to every effort having been made to consult with as many members as possible in the given circumstances.

4.9.6. The exercise of such powers shall be reported to the next formal meeting of the board for formal ratification and the Audit Committee for oversight.

## **4.10. Minutes**

4.10.1. The names and roles of all members present shall be recorded in the minutes of the meetings.

4.10.2. The minutes of a meeting shall be drawn up and submitted for agreement at the next meeting where they shall be signed by the person presiding at it.

4.10.3. No discussion shall take place upon the minutes except upon their accuracy or where the person presiding over the meeting considers discussion appropriate.

4.10.4. Where providing a record of a meeting held in public, the minutes shall be made available to the public.

## **4.11. Admission of the public and press**

4.11.1. In accordance with Public Bodies (Admission to Meetings) Act 1960, all meetings of the board and all meetings of committees that are comprised of entirely board members or all board members at which public functions are exercised will be open to the public.

4.11.2. The board may resolve to exclude the public from a meeting or part of a meeting where it would be prejudicial to the public interest by reason of the

confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings or for any other reason permitted by the Public Bodies (Admission to Meetings) Act 1960 as amended or succeeded from time to time.

- 4.11.3. The person presiding over the meeting shall give such directions as they think fit with regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the Governing Body's business shall be conducted without interruption and disruption.
- 4.11.4. As permitted by Section 1(8) Public Bodies (Admissions to Meetings) Act 1960 (as amended from time to time), the public may be excluded from a meeting to suppress or prevent disorderly conduct or behaviour.
- 4.11.5. Matters to be dealt with by a meeting following the exclusion of representatives of the press and other members of the public shall be confidential to the members of the board.

## **5. Suspension of Standing Orders**

- 5.1. In exceptional circumstances, except where it would contravene any statutory provision or any direction made by the Secretary of State for Health and Social Care or NHS England, any part of the Standing Orders may be suspended by the Chair in discussion with at least two other members.
- 5.2. A decision to suspend the Standing Orders together with the reasons for doing so shall be recorded in the minutes of the meeting.
- 5.3. A separate record of matters discussed during the suspension shall be kept. These records shall be made available to the Audit Committee for review of the reasonableness of the decision to suspend the Standing Orders.

## **6. Use of seal and authorisation of documents**

The common seal of the ICB shall be kept by the Chief Executive Officer or a nominated manager by them in a secure place.

### Register of Sealing

- 6.1 The Chief Executive Officer shall keep a register in which they, or another manager of the ICB authorised by them, shall enter a record of the sealing of every document.

## Use of the Seal

- 6.2 Please refer to the Governance Handbook for details of who may authorise its use, and when use of the seal will be triggered.

## **Appendix 3: Lower Layer Super Output Areas (LSOA's) for the areas not covered by the ICB**

The Hertfordshire and West Essex ICB is partially co-terminus with the District of North Hertfordshire. Those parts of the District of North Hertfordshire which are NOT covered by the ICB are listed below:

E01023660, E01023661, E01023662, E01023654, E01023655, E01023656,  
E01023657, E01023658, E01023659, E01023597, E01023598