

DISPUTE RESOLUTION PROCEDURE

1 INTRODUCTION:

- 1.1 Monitor's code of Governance requires foundation trusts to put in place a procedure for addressing disagreements between the Council of Governors and Board of Directors.
- 1.2 The process for the removal of the Chair and Non-Executive Directors is documented within the Trust's Constitution.
- 1.3 The process for referral to Monitor's Independent Panel is documented within the Trust's constitution.

2 BACKGROUND:

- 2.1 As with all grievances, a dispute should be declared only as a last resort. Established processes should be employed whenever possible to resolve disagreements between two key groups.
- 2.2 Any dispute not resolved by informal means should be subject to external review and dealt with in a timely manner. The recommendations arising from the external review will be binding on all parties, on agreement.

3 DECLARING A DISPUTE:

- 3.1 In order for a dispute to be declared a majority of the Council of Governors or the Board of Directors eligible to vote must agree to this course of action.

4 PROCESS:

- 4.1 **Level one.** The Chair will be informed, by Governors or Directors' that they consider there are grounds to declare a dispute. The Chair will seek to resolve matters informally, normally by asking the Senior Independent Director to investigate the issues and seek resolution. The Senior Independent Director will be assisted by the Trust Secretary. If there is no resolution at this stage a formal dispute will be declared and the process will move to level two.
- 4.2 **Level two.** The Senior Independent Director, Lead Governor and the Trust Secretary will arrange for independent individuals with relevant experience, for example, Chair, Non Executive Director, Governors of other Foundation Trusts to undertake an investigation.
- 4.3 The parties shall within seven days of identifying an investigation team agree a timetable for the exchange of all relevant and necessary information and the procedure to be adopted.
- 4.4 All proceedings with connected with the dispute will be conducted in strict confidence and shall be without prejudice to the rights of the parties in any future proceedings.
- 4.5 All information (whether oral or in the form of documents, tapes, computer disks, etc) produced for, during, or as a result of, the investigation will be without prejudice, privileged and not admissible as evidence or discoverable in any litigation or arbitration relating to the dispute. This does not apply to any information which would in any event have been admissible or discoverable in any such litigation or arbitration.

- 4.6 Any reasonable fees and other expenses would be borne by the Foundation Trust.
- 4.7 If parties reach agreement on the resolution of the dispute that agreement shall be reduced to writing and shall be binding upon the relevant parties.
- 4.8 If parties are unable to reach a settlement and only if both parties so request and the independent investigation team agrees, the investigation team will produce for the parties a non-binding recommendation on terms of settlement. This will not attempt to anticipate what a court might order but will set out what the investigation team suggests are appropriate settlement terms in all of the circumstances. Such opinion shall be provided on a without prejudice basis.
- 4.9 The investigation team will be assisted by the Trust Secretary. The investigation report will be received by the Senior Independent Director, Lead Governor and the Trust Secretary who will discuss the recommendations and agree an action plan for implementation.
- 4.10 This procedure does not restrict a governor's right to act under the Trust's Constitution.

Alison Fox
Trust Secretary

