

**Shetland Health Board**

**Endowment Funds Charter**

# Shetland Health Board—Endowment Funds Charter

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## **Shetland Health Board Endowment Funds Charter**

### **1) Name**

The legally registered name of the charity is the Shetland Health Board Endowment Fund.

### **2) Headquarters**

The headquarters shall be located in the area covered by the Health Board. The Office of the Scottish Charities Regulator (“OSCR”) shall be advised of the current address of the principal office of the charity where the Fund is registered with OSCR.

### **3) Role of Scottish Ministers**

The charity is administered under the terms of sections 82, 83 and 84A of the National Health Service (Scotland) Act 1978. Accordingly the Board holds the funds and property attributable to the charity on trust as a corporate Trustee. This Charter provides the overall terms of reference for the charity, and the Trustees shall uphold its requirements in the governance and management of the charity’s business.

The members of the Board shall be appointed by the Scottish Ministers, or elected, in accordance with relevant legislation.

The members of the Board shall be the Trustees of the charity. However no individual shall hold the position of Trustee if he or she meets one of the criteria for disqualification as set out in Section 69 of the Charities and Trustee Investment (Scotland) Act 2005.

Scottish Ministers have the authority to remove Board members in certain circumstances (Section 77 of the 1978 Act), or may choose not to re-appoint any member of the Board at the end of the term of appointment. Consequently the issue of removal of Trustees is a matter reserved to the Scottish Ministers.

The Trustees shall comply with the spirit of the Charities and Trustee Investment (“Scotland”) Act 2005 with respect to any proposed changes to the governance or management of the charity. This may involve simply notifying the Office of the Scottish Charity Regulator (“OSCR”) of some matters, whilst other matters require OSCR approval. Where a Fund has registered with OSCR the Trustees must comply with the requirements of the 2005 Act. The Trustees shall approve any updates to this Charter to reflect any changes.

### **4) Trustees**

The Trustees are responsible for the general control and management of the charity.

The Trustees shall perform general duties as described in Section 66 of the Act, and satisfy any other obligations in law required of a Trustee. The Trustees are personally accountable in law for the discharge of these duties and obligations.

The Trustees shall convene meetings solely to conduct the business of the charity, with

distinct agendas from that of the Board.

In the discharge of their responsibilities, Trustees shall place the interests of the charity above all other things, including their own interests and the interests of the Board or any other organisation.

The Chair of the Trustees shall be elected from within the body of the Trustees. Any Trustee may be nominated. In the event of more than one nomination the incumbent chair will organise a fair selection process that takes account of the Trustees' views. In the absence of nominations the incumbent chair will nominate a successor for the approval of the Trustees.

## **5) Statutory Constitution**

The founding document of the charity is the National Health Service (Scotland) Act 1978 ("the 1978 Act"). Section 82 of the National Health Service (Scotland) Act 1978 establishes the endowments to be held by the Health Board:

- (1) *All endowments vested in a Health Board by virtue of section 37 of the National Health Service (Scotland) Act 1972 are so vested free of any trust existing immediately before 1st April 1974 (hereafter in this section referred to in relation to any such endowment as "the original trust"); but all such endowments shall be held by the Health Board on trust for such purposes relating to services provided under this Act in or in relation to hospitals, or to the functions of the Board with respect to research, as the Board may think fit.*
- (2) *All property vested in a Health Board by virtue of section 39 of the said Act of 1972 is so vested free of any trust existing immediately before the said 1st April (hereafter in this section referred to in relation to any such property as "the original trust"); but all such property shall be held by the Health Board on trust for such purposes relating to services provided by them under this Act, or to the functions of the Board with respect to research, as the Board may think fit.*
- (3) *In exercising the power conferred on them by this section in relation to any endowment or property a Health Board shall secure, so far as is reasonably practicable, that the objects of the original trust (including, in the case of an endowment, the objects of the endowment) and the observance of any conditions attaching thereto, including, in particular, conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the exercise of the power.*

The National Health Service (Scotland) Act 1978 ("the 1978 Act") also sets out the basis of the "purposes relating to services under this Act", which is of relevance to determining the charity's purpose.

## **Section 1: General duty of Secretary of State**

It shall continue to be the duty of the Secretary of State to promote in Scotland a comprehensive and integrated health service designed to secure;

- (4) *improvement in the physical and mental health of the people of Scotland, and,*
  - (a) *the prevention, diagnosis and treatment of illness, and for that purpose to provide or secure the effective provision of services in accordance with the provisions of this Act.*

## **Section 47 (2)**

Without prejudice to the general powers and duties conferred or imposed on the Secretary of State under the Scottish Board of Health Act 1919, the Secretary of State may conduct, or assist by grants or otherwise any person to conduct, research into any matters relating to the causation, prevention, diagnosis or treatment of illness, or into such other matters relating to the health service as he thinks fit.

### **6) Purposes**

The purposes of the charity are:

- (5) *The advancement of health, through:*
  - (a) *improvement in the physical and mental health of the Board's population;*
  - (b) *the prevention, diagnosis and treatment of illness;*
  - (c) *the provision of services and facilities in connection to the above; and*
  - (d) *the research into any matters relating to the causation, prevention, diagnosis or treatment of illness, or into such other matters relating to the health service as the Trustees see fit.*
- (6) *To observe any conditions attached to a donation or legacy prescribed by a donor to the charity, so far as is reasonably practicable, and consistent with the above purpose and the law.*

The charity's funds shall only be used for the purposes described at 6.1.

The Board, by virtue of Section 82 of the National Health Service (Scotland) Act 1978, holds the charity's funds on trust. The Board recognises that this places legal responsibilities on its individual members as Trustees.

The Board agrees that the Trustees shall observe the following principles whilst discharging their responsibilities under this Charter and the law. This is to reduce the risk of any conflict of interest arising between the role of a Board member, and the role of a Trustee.

## **7) Agreed principles for the use of Endowment Funds**

The Trustees may issue instructions or procedures, or introduce internal control measures to implement the following principles, to support the discharge of the Trustees responsibilities:

*The grant of endowment funds should not substitute for a core provision within the NHS Board's financial plans. Nor should endowment funds be used to cover a responsibility of the NHS Board that is a direct requirement of health and safety or employment law or a ministerial policy direction.*

*An employee of the Board or the Trustees may only benefit from the charity, where the grant or award conferring the benefit satisfies the "public benefit" element of the charity test, as set out in the Charities and Trustee Investment ("Scotland") Act 2005, and the guidance on "Meeting the Charity Test" published by OSCR. The expenditure must be aimed at improving health, or the prevention, diagnosis or treatment of illness for the Boards residents and any benefit to the employee must be incidental to (and necessary for) that public benefit to be realised.*

*Neither the charity's funds in totality, nor any individual fund (restricted or unrestricted) shall be permitted to go into deficit at any time.*

*It is solely for the Trustees to determine how the charity is to be administered, and what expenditure is permitted, providing that all decisions are consistent with this Charter. The Trustees shall discharge their responsibilities free from any external direction.*

*All charity expenditure must comply with this Charter, and have received the direct approval of the Trustees or be within the limits of any expressly delegated authority that the Trustees may have granted to an individual or a Committee.*

*Requests for retrospective awards of funding will not be permitted from NHS bodies. This relates specifically to any situation where a decision has been taken by NHS Body to fund expenditure from exchequer funds and then at a future date after incurring that expenditure seeks to retrospectively apply for endowment funding to cover the costs incurred.*

## **8) Governance and administration**

The Trustees shall approve Standing Orders for the conduct of Trustees meetings and business.

The Trustees shall approve the arrangements for the management and administration of the charity.

The Trustees shall approve all policies and procedures to be applied to the administration of the charity's activities.



The Trustees shall adopt the Boards Standing Financial Instructions for the charity's activities. However the Trustees may adapt these provisions in order to best serve the requirements of the charity.

The Trustees shall directly approve all matters relating to the charity, unless they have expressly delegated the matter to another person or Committee.

## **Appendix A1—Standing Orders for the meetings of the Trustees of the Health Board Endowment Fund**

### **1) General**

These Standing Orders are for the regulation of the conduct and proceedings of the Health Board Endowment Fund. The Standing Orders cover the meetings of the Trustees, and any committees or sub-committees that the Trustees may establish.

Any statutory provision or regulation shall have precedence if it is in conflict with these Standing Orders.

Any one or more of these Standing Orders may be suspended on a duly seconded motion, incorporating the reasons for suspension, if carried by a majority of the Trustees present.

Any one or more of these Standing Orders may be varied or revoked at a meeting of the Trustees by a majority of Trustees present and voting, provided the agenda for the meeting at which the proposal is to be considered clearly states the extent of the proposed repeal, addition or amendment.

In these Standing Orders, references to the male gender shall apply equally to the female gender.

A copy of these Standing Orders shall be provided to all Trustees on appointment.

### **2) Trustees**

The Charter of the Health Board Endowment Fund sets out who are the Trustees.

### **3) Chair**

The Chair of the Trustees shall be elected from within the body of the Trustees. Any Trustee may be nominated. In the event of more than one nomination the incumbent chair will organise a fair selection process that takes account of the Trustees views. In the absence of nominations the incumbent chair will nominate a successor for the approval of the Trustees.

At every meeting of the Trustees the Chair, if present, shall preside. If the Chair is absent from any meeting a Trustee, who is also a non-executive member of the Board, shall be nominated in advance by the Chair. If the Chair has been unable, through unforeseen circumstances, to nominate a replacement in advance, a Trustee, who is also a non-executive member of the NHS Board, shall be chosen at the meeting to preside.

The duty of the person presiding at a meeting of the Trustees or its Committees is to ensure that the Charter and these Standing Orders are observed, to preserve order, to ensure all of the Trustees have an opportunity to contribute and are treated fairly and with respect, and to determine all questions of order and competence. The ruling of the person presiding shall be final and shall not be open to question or discussion.

The Chair may resign office at any time on giving notice to the Scottish Ministers and shall hold office in accordance with appointment by Scottish Ministers unless he/she is disqualified.

#### **4) Secretary**

The Trustees shall agree a secretary to each committee. The committee secretarial support may be commissioned as a service from the NHS Board.

#### **5) Resignation and Removal of Members**

A Trustee may resign office at any time during the period of appointment by giving notice in writing to the Scottish Ministers to this effect.

If the Scottish Ministers consider that it is not in the interests of the health service that a member of the Board should continue to hold that office they may forthwith terminate that person's appointment. Any individual whose appointment to the Board is terminated will automatically cease to be a Trustee.

Where any Trustee becomes disqualified in terms of Section 69 of the Charities and Trustee Investment ("Scotland") Act 2005 that Trustee shall immediately cease to be a Trustee.

#### **6) Ordinary Meetings**

The Trustees shall meet at least two times in the year and meetings of the Trustees, unless otherwise determined in relation to any particular meeting, shall be held at a date, time and venue determined by the Trustees or the Chair and specified in the notice calling the meeting.

Subject to Standing Order 6.6 below, the nominated secretary shall convene meetings of the Trustees by issuing to each Trustee, not less than five clear days before the meeting, a notice detailing the place, time and business to be transacted at the meeting, together with copies of all relevant papers (where available at the time of issue of the agenda).

Meetings of the Trustees may be conducted in any other way in which each member is enabled to participate although not present with others in the same place.

A meeting shall be conducted in accordance with 6.3 above only on the direction of the Chair, or in the absence of the Chair, the Trustee nominated to act as Chair for that meeting.

Any notice of meeting shall be delivered electronically to each Trustee or sent by post to the place of residence of each Trustee, or such other address as notified by them to the Secretary.

Inadvertent lack of service of the notice on any Trustee shall not affect the validity of a meeting.

## 7) Decisions Reserved to Trustees' Meetings

The following matters may only be approved at a Trustees meeting:

- *Any strategy relevant to the charity.*
- *Any policy or procedure pertinent to the system of governance and control to be applied to the charity's activities including the policies relating to acceptance of donations and approach to investment. These policies are set out as appendices 3 and 4.*
- *Annual budgets and the charities reserve policy*
- *The annual accounts, report, and any required returns to OSCR.*
- *The terms of reference of any committee or sub-committee to be established by the Trustees in order to discharge their responsibilities and manage the activities of the charity.*
- *The arrangements for management and administration of the charity's activities.*
- *The appointment of external auditors, and agreement of their fees.*
- *The appointment of investment advisors or changes to the investment arrangements for the funds.*
- *Any proposal for expenditure on a single item over £10,000 not covered by the approved annual budget.*
- *Any proposed changes to the Charter of the Board Endowment Fund.*
- *Any proposal to rationalise the number of separately identified ward funds and stewards.*

To ensure the Trustees have adequate background information to decide on the matters above, they will receive at least annually the following information in addition to documents specifically mentioned above:

- *An annual report on the funds' investments and their performance;*
- *A list of all funds under separate stewardship, including a full statement of the objective for any separately identified funds over £10,000.*

The Trustees may not delegate their responsibilities; however they can delegate necessary functions for the conduct of their business (other than that described at 7.1) to Committees (see Appendix A3) or to individual officers or individual stewards.

The Trustees may delegate responsibility for certain matters to the Chair for his action. In such circumstances, the Chair's action should be homologated at the next ensuing

ordinary meeting of the Trustees.

The Trustees may also delegate oversight of endowment fund matters between full committee meetings and give delegated decision making powers to a sub- committee of Trustees. The remit and delegated authority of the endowment sub-committee is set out in appendix A2.

The Trustees shall approve a document setting out the respective responsibilities and authority of individuals acting on the Trustees' behalf.

The Trustees may, from time to time, request reports on any matter or may decide to reserve any particular decision for a meeting of the Trustees.

### **8) Special Meetings**

The Chair of the Trustees may call a special meeting of the Trustees at any time so long as at least 3 days' notice shall be given.

The Chair of the Trustees shall call a special meeting of the Trustees on receipt of a requisition in writing for that purpose which specifies the business to be transacted at the meeting and is signed by one third of the whole number of Trustees.

In the case of a requisitioned meeting, the meeting shall be held within 14 days of receipt of the requisition and no business shall be transacted at the meeting other than that specified in the requisition.

If the Chair refuses to call a meeting of the Trustees after a requisition for that purpose, or if, without so refusing, does not call a meeting within 7 days after such a requisition has been presented, those Trustees who presented the requisition may forthwith call a meeting by signing the notice calling the meeting provided that no business shall be transacted at the meeting other than that specified in the requisition.

### **9) Conduct of Meetings**

A meeting of the Trustees shall be deemed to have been held when a quorum of at least one third of the Trustees are present, of whom at least 2 of those present are non-executive members of the Health Board. In the event of this quorum not being reached, it shall be deemed that the meeting has not taken place, and consequently no Trustees business shall be transacted or minuted. The Chair may set a time limit to permit the required number of Trustees to be present before formally abandoning the proceedings. If a Trustee leaves during a meeting, with no intention of returning, and this has the effect of removing the quorum, the meeting shall be brought to an end.

In the event of a Trustees meeting not proceeding due to quorum not being reached, the Chair shall record the circumstances and report them to the next meeting of the Trustees.

No business shall be transacted at any meeting of the Trustees other than that specified in the agenda except on grounds of urgency and with the consent of the majority of the Trustees present. Any request for the consideration of an additional item of business shall

be raised at the start of the meeting and the consent of the majority of Trustees for the inclusion must be obtained at that time.

With prior agreement the Chair may propose that certain minor items of business may be conducted electronically. This may include the distribution of reports purely for noting (not for approval) and the approval of an uncontentious item of expenditure over £10,000. The Trustees must be afforded the same access to papers as they would for an ordinary meeting, electronic comments and approvals may be received any time during the notice period ( which should not be less than 5 days) and must be shared with all Trustees. Quorum will be the same as for an ordinary meeting and the Chair shall judge the final outcome of the decision based on comments received.

All acts of, and all questions coming and arising before, the Trustees shall be done and decided by a majority of the Trustees present and voting at a meeting of the Trustees. Majority agreement may be reached by consensus without a formal vote. Where there is doubt, the Trustees shall formally vote by a show of hands, or by ballot, or any other method determined by the person presiding at the meeting.

In the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

A motion, which contradicts a previous decision of the Trustees, shall not be competent within six months of the date of such decision, unless:

- *At the time the original motion was passed it was noted as provisional and subject to amendment within six months; or*
- *The need for the change comes from a new legal requirement, a newly introduced, or a clarification of a, legal point that was not available at the time of the original decision.*

Where a decision is rescinded, it shall not affect or prejudice any action, proceeding or liability that may have been competently done or undertaken before such decision was rescinded.

## **10) Minutes**

The names of Trustees and other persons present at a meeting of the Trustees, or of a Committee of the Trustees, shall be recorded in the minutes of the meeting.

Minutes of the proceedings of meetings of the Trustees and its Committees and decisions thereof shall be drawn up by the nominated secretary and be submitted to the next ensuing meeting of the Trustees or relevant Committee for approval as to their accuracy.

## **11) Order of Debate**

Any motion or amendment shall, if required by the Chair, be reduced to writing, and after being seconded, shall not be withdrawn without the leave of the Trustees. No motion or amendment shall be spoken upon, except by the mover, until it has been seconded.

After debate, the mover of any original motion shall have the right to reply. In replying he shall not introduce any new matter, but shall confine himself strictly to answering previous observations and, immediately after his reply, the question shall be put by the Chair without further debate.

Any Trustee in seconding a motion or an amendment may reserve his speech for a later period of the debate.

When more than one amendment is proposed, the Chair of the meeting shall decide the order in which amendments are put to the vote. All amendments carried shall be incorporated in the original motion which shall be put to the meeting as a substantive motion.

A motion to adjourn any debate on any question or for the closure of a debate shall be moved and seconded and put to the meeting without discussion. Unless otherwise specified in the motion, an adjournment of any debate shall be to the next meeting.

## **12) Adjournment of Meetings**

A meeting of the Trustees, or of a Committee of the Trustees, may be adjourned by a motion, which shall be moved and seconded and be put to the meeting without discussion. If such a motion is carried, the meeting shall be adjourned until the next scheduled meeting or to such day, time and place as may be specified in the motion.

## **13) Declaration of Interests and Register of Interests**

Trustees shall observe all their obligations under the Charities and Trustee Investment (Scotland) Act 2005. All Trustees must put the interests of the charity before their own personal interests or other duty they may have, or any other person or organisation.

The Trustees shall follow the processes established for members of the Board, for compliance with the Ethical Standards in Public Life Act (Scotland) 2000. Any interests registered or declared as a consequence of observing the associated Code of Conduct, shall be used for the application of these Standing Orders. A separate Register of Interests shall be maintained for the Trustees from the Register maintained for Board members.

Any Trustee who has a clear and substantial interest in a matter under consideration by the Trustees or a Committee should declare that interest at any meeting where the matter is to be discussed, whether or not that interest is already recorded in the Trustees register of interests. Such declarations should make clear the interest and whether it is of an either direct or indirect financial nature.

Where such an interest is of a direct or indirect financial nature, the member involved should withdraw from any meeting and not speak, participate in or otherwise seek to influence any decision taken by the Trustees or Committee relating to the matter under discussion.

Trustees who are also principals or other employees of bodies which receive funds from

the charity (other than the NHS Board) may participate in general discussions and decisions regarding such bodies, but should withdraw and not participate in any discussion or decision which relates principally to the particular institution with which they are associated. The Chair should take particular care to ensure that no possible conflict of interest in this area is allowed to arise.

Where a Trustee has an interest that is not financial but which is relevant to the Trustees business, that interest should be declared. Where the interest is substantial, the member involved should withdraw from discussions and decisions relating to that interest. Where an interest arises from membership of a public body and is not of a financial nature, full participation in the discussion and decision is permitted.

In all cases, Trustees "interests" covers also the interests of any related parties, including family members or members of the same household who may be expected to influence, or be influenced by, Trustees.

In all circumstances, Trustees should ask themselves whether members of the public, knowing the facts of the situation, could reasonably conclude that the interest involved might influence the approach taken to the actions of the Trustees. If so, the interest is sufficient to oblige the Trustee to withdraw.

In case of doubt as to whether any interest or matter should be the subject of a notice or declaration under the Code, Trustees should err on the side of caution and submit a notice/make a declaration or seek guidance from the nominated secretary as to whether a notice/declaration should be made.

Where the Code requires an interest to be registered, or an amendment to be made to an existing interest, this shall be notified to the nominated secretary by giving notice in writing using the standard form available from the nominated secretary within one month of the interest or change arising. The nominated secretary will write to Trustees every year to request them to formally review their declaration.

Persons appointed as Trustees shall have one month to give notice of any registerable interests under the Code, or to make a declaration that they have no registerable interest in each relevant category as specified in the standard form to be supplied by the nominated secretary.

The nominated secretary shall be responsible for maintaining the Register of Interests and for ensuring it is available for public inspection at the principal offices of the charity at all reasonable times.

The Register shall include information on:

- *The date of receipt of every notice;*
- *The name of the person who gave the notice which forms the entry in the Register; and*
- *A statement of the information contained in the notice, or a copy of, that notice.*



Trustees shall make a declaration of any gifts or hospitality received in their capacity as a Trustee. Such declarations shall be made to the nominated secretary, and they shall be made available for public inspection at all reasonable times at the Principal Offices of the Board.

#### **14) Suspension of Trustees**

Any Trustee who disregards the authority of the Chair, obstructs the meeting, or conducts himself offensively shall be suspended for the remainder of the meeting, if a motion (which shall be determined without discussion) for his suspension is carried. Any person so suspended shall leave the meeting immediately and shall not return without the consent of the meeting. If a person so suspended refuses, when required by the Chair, to leave the meeting, he may immediately be removed from the meeting by any person authorised by the Chair so to do.

#### **15) Admission of Public and Press**

Meetings of the Trustees shall not be open to the public and press unless the Trustees decide otherwise in respect of a particular meeting.

#### **16) Committees**

The Trustees shall appoint such Committees and Sub-Committees as they think fit to uphold the Charter and discharge their responsibilities. The Trustees shall approve the terms of reference of any such Committee or Sub-Committee.

Any Trustee may deputise for another Trustee at any meeting.

Committee Chairs and Vice-Chairs shall be appointed by the Trustees on the recommendation of the Chair of the Trustees.

The Chair of a Committee may call a meeting of that Committee any time and shall call a meeting when requested to do so by the Trustees.

The foregoing Standing Orders, so far as applicable, and so far as not hereby modified, shall be the rules and regulations for the proceedings of formally constituted Committees and Sub-Committees, subject always to the following additional provisions:

- *A Quorum for a Committee or Sub-Committee shall in no case be less than two Trustees who are also non-executive members of the Board. The requirement for a quorum to be present, as described in Paragraph 9.1, shall apply to Committee and Sub-Committee meetings, except that the Chair shall wait no longer than 30 minutes from the announced starting time for a quorum to be reached.*
- *In the event of a Committee meeting not proceeding due to its quorum not being reached, the Committee Chair shall record the circumstances and formally report this to the next meeting of the Trustees. In the case of a Sub-Committee, the report shall be provided to its parent Committee.*

- *If the absence of the Chair of the Committee or Sub-Committee has contributed to quorum not being achieved, then another non-executive member of the Committee or Sub-Committee (who was present) should prepare the report. The relevant Executive Director of the Board should prepare the report if there were no non-executive members present.*
- *All Trustees shall have the right to attend all Committees except where the terms of reference of such Committees do not permit this.*
- *Meetings of Committees and Sub-Committees shall not be open to the public and press unless the Trustees decide otherwise in respect of a particular Committee or a particular meeting of a Committee. However, all papers and minutes should be drafted on the presumption that they will become immediately accessible to the public under the Freedom of Information (Scotland) Act 2002 and the designation as "Reserved Business" of any reports or minutes that are felt by the responsible Director to be confidential must be justified in respect of a specific exemption under the Act.*
- *Committees of the Trustees and their Chairs can be appointed at any meeting of the Trustees. Vacancies in the membership of Committees shall be filled, so far as practicable, by the Trustees at the next scheduled meeting following a vacancy occurring.*
- *Committees of the Trustees may appoint Sub-Committees and Chairs thereof as may be considered necessary.*
- *Minutes of the proceedings of Committees shall be drawn up by the nominated secretary and submitted to the Trustees at the first scheduled meeting held not less than seven days after the meeting of the Committee for the purpose of advising the Trustees of decisions taken.*
- *Minutes of meetings of Sub-Committees shall be submitted to their parent Committee at the first scheduled meeting of the parent Committee held not less than seven days after the meeting of the Sub-Committee for the purpose of advising the Committee of decisions taken.*
- *A Committee, or Sub-Committee may, notwithstanding that a matter is delegated to it, direct that a decision shall be submitted by way of recommendation to the Trustees or parent Committee for approval.*

## **Appendix A2—Terms of Reference for the Board Endowment Fund Sub-Committee**

There is no Endowment Fund Sub Committee established.

## **Appendix A3—Terms of Reference for MRI Appeal Sub-Committee**

### **1) Name of Committee**

MRI Appeal Committee (*referred to below as the Committee*)

### **2) Chair**

Endowment Fund Chair

### **3) Membership**

Chair & 5 Trustees

### **4) Quorum**

Minimum of 2 Non Executive Members of the Endowment Committee (*as set out in the Endowment Charter*)

### **5) Aim**

The Committee has been established to oversee and direct the Shetland MRI Appeal

### **6) Outcomes**

Fundraising of £2M to support the provision of local MRI services

### **7) Delegated Authority / Responsibilities:**

- To direct the arrangements and process for fundraising.
- Within any delegated budget allocate resources to support the delivery of the Appeal
- Oversee the work of any individual contracted / employed to support the Appeal
- Ensure the Appeal is carried out in a professional manner, that supports the overall aims and values of the Endowment fund
- Provide an update to each full Endowment Fund meeting on progress with the Appeal
- Establish a Community Fund raising group / arrangements as the Committee see fit, including identifying appropriate community champions / leaders to lead this.

### **8) Committee Standing Orders:**

The committee will carry out its functions in line with the Standing orders set out in the Endowment Charter.

It is agreed that to support the creation of a Community Fundraising group that meetings of the Committee / Fundraising group can involve invited / identified members of the public, as is required and seen appropriate by the Committee.

## **Appendix A4—Policy on acceptance of donations**

Trustees should recognise that the acceptance of donations is an extremely sensitive area. It is essential that, when accepting donations, consideration is given to the charity's ability to fulfill the wishes of the donor as well as any potential impact on the charity's reputation.

### **Acceptable**

The following donations are considered acceptable provided they are in keeping with the objectives of the Board Endowment Fund.

- From patients, relatives or visitors of patients;
- From charitable organisations;
- From members of the general public;
- From employees;
- From local authorities;
- From the local business community; or
- From special fundraising activities approved by the Trustees.

### **Unacceptable**

The following donations are considered unacceptable.

- From organisations where any association could bring the NHS into disrepute;
- From any organisation which may seek to gain publicity or use the fact of a donation in any advertising campaign that is not consistent with the aims and values of the NHS endowment fund; or
- Any donation where it would appear that the NHS is endorsing or promoting any particular medicinal or other product.

### **Guidance**

The following guidance on donations is given:

- Consideration must be given to donations from existing or future suppliers to the NHS. Such donations may be acceptable but it should be made clear that any such arrangements are completely separate from normal commercial transactions.

- Special attention should be given to donations from patients or relatives. In particular nothing should be done which might appear to either put pressure on or offer inducements to patients or their relatives to contribute.
- Donations should not be accepted from a commercial organisation during any tender negotiating process.
- Donors should be encouraged to donate funds on as general a basis as possible in order to maximise the flexibility and the benefit that can be derived from their deployment.
- There needs to be appropriate consideration as to whether any specific wishes of the donor are consistent with the charitable purposes of the fund or are for a purpose which the Trustees are likely to support or are for a Board service or facility which the Board is likely to be able to deliver
- Bequests and legacies in excess of £10,000 require an acceptance decision from the full Trustees.
- If the Trustees deem a donation to be unacceptable, it will be returned to the donor. Revenue implications on donations over £1,000 must be agreed in advance with the Finance Department before the contribution is accepted.

## **Appendix A5—Investment Policy**

The assets of the Endowment Fund will be invested to provide a balance between long term growth, security, availability and maximisation of annual income.

Decisions on investment policy and the types of investment to acquire and retain are complex and require the services of independent investment advisers.

At all times the annual budget of the Board Endowment Fund shall be set at such a level that the fund would be able to absorb both the annual expenditure commitment and any foreseeable level of fluctuation within the finance markets.

A report from the investment adviser should be considered by the board of the full Trustees annually.

The Trustees shall periodically consider whether a change to the investment arrangements would be in the interests of the charity.

As part of the preparation for the annual accounts there will be a reconciliation of the balance in the year end valuation summaries produced by the investment adviser and the balances in the Endowment Fund financial statements.

The investment policy the board's independent investment advisers must adhere to includes the ethical investment policy as agreed by the Trustees.

The board's ethical investment policy creates a restriction that no investments should be made in companies that are involved in either the manufacture or production of tobacco and alcoholic beverages.



# Shetland Health Board

## Endowment Funds Operating Instructions

## 1) Definition and purpose of Endowments

An endowment is money or property donated to a Health Board. All such endowments shall be held by the Health Board on trust for such purposes relating to services provided under the National Health Service (Scotland) Act 1978 or in relation to hospitals, or to the functions of the Board with respect to research, as the Board may think fit.

The legal framework under which charities operate is the Charities and Trustee Investment (Scotland) Act 2005. Although the NHS Scotland Endowment Funds are not subject to the Charities and Trustee Investment (Scotland) Act 2005 and do not require to be registered with the Office of the Scottish Charities Regulator (OSCR) host Boards should ensure that they operate within the spirit of this Act.

Host Boards which have registered with OSCR should ensure that they comply with the 2005 Act.

The members of an NHS Board, who are also the Trustees of the Endowment funds, are appointed by the Scottish Ministers, or elected, in accordance with relevant legislation. The purpose of the Boards Endowment Funds is the advancement of health through:

- *Improvement in the physical and mental health of the local population;*
- *The prevention, diagnosis and treatment of illness;*
- *The provision of services and facilities in connection to the above; and*
- *Research into any matters relating to the causation, prevention, diagnosis or treatment of illness, or into such other matters relating to the health service as the Trustees see fit; and*
- *Education and development in connection to the above.*

In addition, the Trustees will observe any conditions attached to a donation or legacy prescribed by a donor to the charity, so far as is reasonably practicable, and consistent with the above purpose and law.

There are three types of endowment fund: Unrestricted, Restricted and Endowment/Permanent funds.

These terms are defined below:

- **Unrestricted:** *these may be used at the discretion of the Trustees for wholly general purposes or restricted to a particular hospital site or site.*
- **Restricted:** *these funds are donated for a specific purpose, for example for the benefit of a particular ward, or for a particular area of research.*

- **Endowment/Permanent:** *these are funds whose capital element is preserved and only the income arising from them may be spent.*

Fundholders must accept the charitable nature of these funds and the need to observe charity law at all times. The Trustees are legally accountable for the funds and have approved these procedures to give direction and support to the fundholders. By following these procedures fundholders will comply with the law and also ensure that all funds are used in line with their stated purpose.

Whilst this document is intended as a comprehensive guide it is not possible to cover every eventuality or always to give absolute guidance. For further advice or clarification fundholders should in the first instance contact the finance department. In all cases the Trustees decision is final.

This document also explains how funds are invested and how the costs associated with such funds are borne.

## **2) Governance**

The Trustees are responsible for the general control and management of the charity. Governance arrangements are detailed in the Endowment Funds Charter and Standing Orders approved by the Trustees.

## **3) Setting up a new fund**

It is at the Trustees absolute discretion whether or not they will set up and accept responsibility for a particular new fund; in order to promote the most effective use of charitable resources, the creation of new funds is tightly controlled.

An Application to set up a new fund form must be completed and submitted to the Director of Finance who will review the application to determine whether:

- *The objectives of the proposed fund can be accommodated within the overall charitable objectives of the Endowment Funds and are not too specific to unduly restrict the use of donations,*
- *There is not already a fund serving the same purpose. If such a fund exists a new fund will not normally be opened,*
- *The level of expected income must be sufficient to justify the creation of a new fund, and*
- *The proposed fundholder has the support of their divisional Director.*

A list of requests to open funds that the Director of Finance considers to be appropriate will be presented to the Trustees for approval at their next meeting after which applicants will be informed of the outcome.

All applications for new specific funds must nominate two fundholders one of whom will be identified as the lead fundholder. All proposed fundholders and any other authorised signatories to the fund must provide sample signatures.

A full list of current funds is available from the Director of Finance.

#### **4) Fundholders and Signatories**

Fundholders must be employees of the Board. This includes honorary contracts held by university academic staff.

All fundholders and signatories are required to comply with the Boards Code of Conduct and that of any professional body to which they are affiliated as well as observing the guidance set out in these operating instructions.

Under the Boards Scheme of Delegation fundholders and other signatories are directly accountable for ensuring that all expenditure is compatible with both the specific purposes prescribed by them for the fund and the charitable purposes of the endowment funds.

In accordance with the Boards Standing Financial Instructions no employee may open a bank account for the activities of the Endowment Funds or in the name of the Endowment Fund.

Appointment of fundholders is at the discretion of the Trustees. New fundholders to specific funds must be proposed by the lead fundholder and must be supported by the divisional Director. All applications to amend funds are presented to the Trustees for approval.

All fundholders shall be appointed for a fixed term and may be reappointed after this period.

Reappointment requires support from the divisional Director.

Fundholders and signatories must abide by an individual signing limit as set out in the delegated limit of authority for individual invoices.

Expenditure over £100 must be countersigned by the leadfundholder

Fundholders and signatories are permitted to authorise disbursements from their funds to an upper limit as set out in the delegated limit of authority for individual invoices.

Disbursement over £10,000 from a fund requires additional authorisation from the Trustees.

Any reimbursements or expenditure requests to a fundholder or signatory personally ( , for example travel costs; conference fees) must be countersigned by a line manager (who is not also a fundholder). Fundholders and signatories may never authorise payments to

themselves or to someone with whom they are closely related.

Fundholders and signatories, or someone with whom they are closely related, may not gain any personal benefit from the Endowment Funds.

## **5) Reporting Requirements**

Expenditure from funds is the legal responsibility of the Trustees. The Trustees take a proportional approach to reporting requirements so that the larger the fund the more comprehensive the reporting requirements.

To ensure that expenditure is properly monitored the Trustees will require fundholders to funds with larger balances to produce spending plans for their approval.

Failure to produce a spending plan by the due date will result in a fund being frozen until the information is produced.

An updated spending plan may be requested where a fund receives significant unplanned income during the year.

All fundholders are encouraged to make senior colleagues within their department aware of the existence of the fund and ensure its use is discussed.

## **6) Reserves Policy**

Normally charitable funds must be applied within a reasonable time; however, the Trustees recognise that flexibility may be appropriate for some funds.

Reserves may only be held in support of specific projects. This might include the need to accumulate funds to purchase a particular piece of equipment by a given date. A precise reserve figure and a timetable for monitoring and reviewing the policy must be given. The policy should take into account likely future donations to the fund and expenditure plans.

If fundholders wish to keep reserves for more than three years this must be explained giving a clear timetable for their application beyond this period.

## **7) Ceasing to be a Fundholder**

The Trustees will remove a fundholder or signatory where they believe any of the requirements in this document are not being met. In such cases they will either take direct control of the fund or delegate authority to an alternative fundholder or signatory.

Where funds are not being used and are simply accumulating the fundholder will be asked to provide details of their plans for the use of the funds. If no suitable proposals are received from the fundholder, or the funds have not been used effectively for two years without good reason, the Trustees reserve the right to assume control of the funds.

If a fundholder or signatory retires or leaves the Boards employment they will

automatically cease to be a fundholder or signatory. As they approach retirement or departure from the Board they should arrange a smooth handover of their responsibilities to an appropriate individual.

The delegated authority of a fundholder or signatory is at the discretion of the Trustees and will not automatically transfer without the approval of the Trustees.

Donations and fund balances may not be transferred to follow a former fundholder to a new employer or normally to a different clinical department or ward.

## **8) Changes to a Fund**

In addition to changes to the stewardship of a fund (section 5 above) and closure or amalgamation of funds (section 8 below) there may be other changes that fundholders wish to make to the funds they manage. Any proposed changes to the name and purpose need to be presented to the Trustees for approval.

Expenditure in categories not clearly within the stated purposes of the fund may not be authorised.

## **9) Minimum Balance**

If a fund's balance falls below £100 and there is no evidence of significant new donations to the fund the fundholder may be asked to decide on appropriate application of the remaining funds within six months and the Trustees may act to close the fund.

## **10) Closure or Amalgamation of Funds**

If it is evidenced that a restricted fund no longer serves a useful purpose the Trustees could apply to the Court of Session to vary the fund purposes. If the fund was unrestricted, then the Trustees could use the fund for general purposes.

Where the Trustees approve the closure of a fund any remaining balance may be transferred to another fund with similar purposes.

Additionally fundholders of two or more similar funds may agree that it would be beneficial to amalgamate, for example, to focus fundraising activities; to make a strategic purchase or enhancement.

In the cases outlined in 2.9.2 and 2.9.3 the Trustees retain absolute discretion as to the dissolution and/or amalgamation of funds.

## **11) Income General**

The acceptance of money or property as a charitable donation is entirely at the Trustees discretion.

It is important that any contributions to the funds do not carry any conditions which fall

outside the charitable objectives. Where there is doubt whether the gift falls within the objectives of the endowment funds the trustees should be consulted prior to acceptance. In the absence of any condition being attached at the time of the donation it will be assumed that there are none and it may not subsequently be reassigned.

All charitable donations received by Board staff in the course of their employment must be paid into an endowment fund. All monetary gifts intended only for staff personal benefit are not charitable in nature and must not be accepted.

Donors may specify how their donation is used. Beyond existing specific funds or simple restrictions donors should be dissuaded from complex restrictions that cannot sensibly be met (in particular for specific items of equipment, brands or suppliers)

Donations may be received from several sources including but not limited to:

- *Individuals*
- *Fundraising groups*
- *Charitable Trusts and Corporations*
- *Pharmaceutical companies,*
- *Private fees donated by consultants*

Individual items of income received over £10,000 will be reported to the Trustees.

The local operating procedures for recording the collection or receipt of a donation is covered in Annex A to C.

## **12) Tax Position**

Donors who are UK taxpayers can make donations using the Gift Aid scheme. Fundholders should make themselves aware of the Gift Aid scheme and encourage donors to make a declaration as it adds a great deal to the basic donation. Gift Aid claimed will be credited to the originating fund.

Gift Aid cannot be claimed on donations from companies or on the proceeds of fundraising events.

Where a legacy is fulfils the charity test it will be more tax efficient to take the legacy to endowments rather than exchequer funding. Capital Gains Tax will not be payable on this part of the estate as it is a charitable donation.

## **13) Income Generation**

Board employees may hold fundraising events in their own time. Such events should be

described as being held “in aid of” as neither the Board nor the Trustees will accept liability for injury or loss incurred at the event.

Where Board employees generate income through either selling goods, running conferences and training events or providing services, for example laboratory fees, this income must be paid into the Boards exchequer funds as it is not charitable in nature and normally uses Board facilities and/or resources in its generation.

Trustees normally only accept voluntary income i.e. donations and legacies. Where a fundholder receives grant income, sponsorship income or income from any commercial, non-charitable activity the Director of Finance will advise whether such income is acceptable and may be credited to endowment funds or whether it should be regarded as exchequer funding.

Where income has been received which the Trustees do not wish to hold it will either be returned to the donor or credited to exchequer funds as appropriate.

It is at a clinician’s discretion whether or not they choose to pay any of their personal income, for example private patient income; lecture fees . into an endowment fund. “Occasional” earnings such as lecture fees may be assigned directly to the endowment funds according to Schedule D case VI, provided that the fees are small in value, infrequent, and for a limited range of services; via an “Annual Declaration for the Assignment of Private Medical/Lecture Fees to a Medical Charity”.

#### **14) Research**

Charitable Research funds which can be held by the Trustees are those where a donor makes a gift for an area of research. The donor has no rights over the ownership, publication, management or execution of the research. Any research work that is funded from a specific fund must be approved in advance by the Board. The useful benefits of such research should be published in such a way that the public will benefit from the advancement of medical research. There must be no arrangement to provide preferential access to research findings for funders or any other thirdparty.

Research is defined as commercial if the contributor (normally a pharmaceutical company) does any one of the following:

- *Enters into any service agreement, understanding or contract;*
- *Retains any rights over the ownership of the results of the research;*
- *Holds the rights over the publication of the results of the research.*

The Trustees will not accept commercial research funds or any income from companies as payment for a service which has been provided. Such funds should be held and administered by the Board.



The Trustees will not accept research grants receivable from external bodies, for example MRC, Wellcome Trust, for research activities. These grants should be held and managed by the Board.

### **15) Other Gifts**

On occasions donors may wish to gift items rather than make cash donations. There are particular reasons why certain things may be acceptable, for example artwork; books for the patient library, while others are not, for example used soft toys which may be an infection risk. The acceptance of such gifts should be discussed and agreed locally.

### **16) Expenditure General**

Expenditure from endowment funds is the legal responsibility of the Trustees who must ensure that it is in accordance with the charitable purpose of the Endowment Funds and, if appropriate, the stated purpose of a specific fund.

All expenditure requests above £10,000 must be approved by the Trustees. Funds may not be allowed to go into deficit.

Any reimbursements or expenditure requests to a fundholder or signatory personally (for example travel costs; conference fees) must be countersigned by a line manager (who is not also a fundholder). Fundholders and signatories may never authorise payments to themselves or to someone with whom they are closely related. Annex E outlines local general procedures for orders and reimbursement of expenses.

### **17) Procurement**

All expenditure must be incurred in accordance with the Board's Standing Financial Instructions. Orders will then be placed using the Board's procurement system.

### **18) Tax relief on goods ordered**

VAT exemption may be available on purchases of scientific, laboratory or medical equipment for use in medical research, training, diagnosis, treatment or patient care. VAT exemption may also be available on equipment and aids specially designed for disabled persons. In addition input will be recoverable for contracted out services, business activities.

### **19) Programme grants (including salary allocations)**

Programme grants allow for broad support of larger scale or longer term activities or development of research or services. All programme grants over £10,000 must have prior approval from the Trustees.

Programme grants do not directly meet the cost of a salary but may be allocated towards the total salary costs of the programme by the employing organisation.

It is good practice that the grant of endowment funds should not substitute for a core provision within the NHS Board's financial plans.

Programme grants must be for a fixed period which will be based on defined objectives and availability of funds.

The fund must have a balance that exceeds the total of the grant amount proposed plus any other existing commitments on the fund. Programme grants will not be approved on the basis of future projected income.

At the end of the grant period it is the fundholders responsibility to provide a brief report or evaluation of the programme including related publications.

Programme grants may be renewed subject to sufficient funds being available for the renewed fixed period and a positive review of quality of output/delivery of outcomes for the period just passed.

## **20) Salaries and expenses (in exceptional circumstances only)**

The Trustees do not directly employ people using charitable funds but it is permissible to use a fund to reimburse salary costs to an employer such as the Board or a university. All salary recharge requests must have prior approval from the Trustees before an appointment is made.

Salary costs and expenses may only be recharged to a fund if the member of staff is undertaking work which:

- *Falls within the stated purpose of the fund and is consistent with the charitable purpose of the endowment funds*
- *Enhances statutory provision*

The Trustees have a policy of only funding fixed-term contracts up to a strict maximum of 24 months (two years). Fixed term contracts may only be extended or repeated beyond this period with the approval of the Endowment Fund trustees and with the explicit agreement of the employing body (since this may result in long term employment rights / costs).

The fund must have a balance that exceeds the fully on costed total of the contract of employment, plus laboratory costs, consumables and expenses where applicable plus any other existing commitments not connected to the post.

In considering funding salary costs Trustees must have a clearly articulated exit strategy after the contract end.

Periods of sickness, maternity or paternity leave may involve costs to be met from the fund during the approved period even though the duties are not being performed by the

post-holder.

At the end of the contract period it is the fundholders responsibility to provide a brief report or evaluation of the work carried out by the funded individual.

All salaries or payments to employees need to be paid via the employing organisation's payroll so that the appropriate PAYE and NIC deductions can be made and accounted for. Charging a salary to a fund does not affect the obligation to make these statutory deductions.

For new appointments it is the responsibility of the fundholder to make the necessary arrangements regarding recruitment and appointment with HR and Payroll. The employing organisation will then recharge the cost of the salary to the fund.

For secondments and contractual changes it is the responsibility of the fundholder to ensure that the Notification of Change form is completed and actioned.

## **21) Travel, subsistence and accommodation**

Expenses must fall within the charitable purpose of the fund from which they are claimed.

Expenses will be reimbursed in accordance with the relevant regulations and the Boards policy on travel expenses, subsistence and accommodation.

Where the claimant is employed by another organisation the expenses will be reimbursed in accordance with that organisations policy on travel expenses, subsistence and accommodation.

Reimbursement of expense claims will be authorised by the fundholder. Where the claimant is the fundholder the claim must be countersigned by their line manager (who is also not a cosignatory of the fund). Fundholders and other signatories may never authorise payments to themselves or to someone with whom they are closely related. Annex E contains local details of how reimbursement is made.

## **22) Employee welfare and development**

Endowment funds should not generally be used to pay for staff entertainment, for example Christmas parties, nights out, sports and social activities, as this does not meet the charitable purpose of the funds.

Donations to staff should be used for more tangible benefits such as improved ward facilities for staff and patients. The Trustees have discretion to approve staff functions where considered appropriate.

Where the specific purpose of a fund is to provide for employee welfare and development it may be used for this purpose.

Endowment funds may only be used where the benefit is to a group of staff rather than to specific individuals.

Under no circumstances should endowment funds be used to pay for alcohol as part of employee welfare and development.

It is not appropriate to hold specific funds within endowments for employees sporting activities, for example hill walking, golf . as these are not classified as charitable for NHS purposes.

The use of endowment funding for services which improve staff health, for example staff physiotherapy service, is at the discretion of the Trustees. Permissible services should encourage an earlier return to work or lead to an improvement in performance.

### **23) Hospitality**

Hospitality is here defined as the friendly reception and entertainment of guests, visitors, volunteers or carers. It covers expenditure relating to a person who is not a Board employee and whose work might fall within the objects of the fund.

As a general rule hospitality will only be allowable if it can be shown to provide tangible benefits in furtherance of the objects of the funds. Under no circumstances should endowment funds be used to pay for alcohol as part of hospitality expenses.

Any hospitality provided should be reasonable and in line with the relevant regulations for subsistence and the Boards policy on hospitality.

### **24) Patient welfare and amenities**

Anything which might make a patient's stay in hospital more comfortable or give more support to families and visitors can be considered for support. This includes items such as toys, TVs and books.

However this will not include ongoing commitments such as television subscriptions or TV licences.

### **25) Gifts and presents**

In the case of certain funds such as those which include patient welfare/amenities it may be appropriate to use funds for the purchase of gifts for patients.

In the case of patients modest gifts may be purchased for, for example, Christmas or birthdays.

However funds **cannot** be spent on gifts or presents for Board employees.

### **26) Research expenditure**

Unrestricted contributions towards research expenditure will only be allowed if the research is within the objects of the fund.

As long as the equipment, materials and services (for example chemicals, analysis of samples) for which payment is being requested are applied to the primary objective of the fund they will be allowable expenditure.

Costs such as attendance at training courses and conferences and subscriptions can be included within research expenditure as they are a means of increasing knowledge which can be applied in carrying out research.

## **27) Subscriptions**

Subscriptions fall into two categories: publications and subscriptions to institutions. So long as the subscription is related to the main objective of the fund and is not a personal subscription, it will be allowable expenditure. The publication must be made available to all members of the department.

Personal subscriptions to publications (at reduced rates) which are then shared across departments are not permitted as this infringes copyright law.

Institutions to which subscriptions are made must provide some form of educational assistance and fall within the main purpose of the fund.

Personal subscriptions to institutions, for example to a Royal College, which are accepted by HMRC as tax allowable deductions from an employee's income are not permitted to be claimed from a fund.

Subscriptions paid by employees are usually tax deductible if they are:

- *A statutory condition of holding their NHS position (for example a consultant surgeon must belong to the Royal College of Surgeons)*
- *Otherwise directly relevant to the person's employment.*

For reference, [www.hmrc.gov.uk/list3/index.htm](http://www.hmrc.gov.uk/list3/index.htm) lists all organisations whose subscriptions qualify for tax relief. Besides the Medical Royal Colleges, the list includes many other bodies such as the British Institute of Radiology and the British Cardiac Society.

## **28) Conference expenses**

Cost of an individual's attendance at a conference or seminar and necessary and reasonable expenses for travel, accommodation and subsistence may be covered by endowment funding, but only when the topic of the conference is related to the purpose of the funds.

The Board's procurement system will be used to book conference places, travel and accommodation.

Any claims relating to attendance at a conference should also be accompanied by a copy of the conference programme as well as a copy of the authorised study leave form.

Fundholders are strongly advised to seek advice on payment/reimbursement of conference expenses before making a financial commitment on behalf of the fund.

If attendance at the conference or seminar is by the fundholder or signatory themselves, requests for payment/reimbursement must be countersigned by a line manager (who is not also a fund cosignatory).

Fundholders and signatories must never authorise payments to themselves or to someone with whom they are closely related. Payments in respect of friends, spouses, family members or accompanying Board employees will not be met by the fund.

## **29) Equipment**

The use of endowment funding is permitted if it allows the purchase of an item with enhanced functionality or with benefits additional to those required for basic service provision.

However the purchase must not involve buying or replacing a routine piece of equipment which is essential for the maintenance of a standard, safe clinical service. For example funds could not be used to buy a standard bed but might be permitted to purchase an advanced electronic bed with specific features that improve the patient experience.

Under NHS regulations equipment costing over £5,000 purchased with endowment funding will be entered into the Board's asset register. It becomes the property of the Board which will be responsible for revenue implications, ongoing maintenance and ultimate replacement of the equipment.

Any proceeds from the future sale of items originally funded from endowments will be credited to exchequer funds.

Where contributions are made to a university for the purchase of equipment, the equipment will become the property of the university. Equipment which does not become the property of the Board or a university is not allowable expenditure.

The procurement of any equipment will be in accordance with the Board's SFIs.

The equipment must be used solely for the purpose of the specific fund and equipment purchased for other purposes cannot be charged to the fund.

NHS regulations require all electrical equipment to be PAT tested in-house before use.

### **30) Building works / refurbishment**

All building works and refurbishments charged to a fund must be carried out through the Board's Capital Planning and Estates Departments and in accordance with the Board's SFIs.

Fundholders should acknowledge the use of endowment funding and/or major donors for building and refurbishment works by affixing a plaque in areas which have been improved.

### **31) Education and training**

Provided the expenditure falls within the fund's purpose, costs related to education and training will be allowed. This includes course fees, cost of travel, subsistence. Copies of authorised study leave forms should be provided alongside requests for funding.

Mandatory training (for example in order to maintain the safe running of a clinical service or to maintain professional qualifications) is not permissible. Courses which educate the trainee with no wider benefit to the Board are also not permissible.

Education of patients and their families or carers is a legitimate activity for funding from endowments and may include the production of materials developed elsewhere.

### **32) Community engagement activities**

Community engagement activities may be funded from restricted or unrestricted funds if the benefit is for the wider community.

### **33) General office expenditure**

Costs incurred which are incidental to the main purpose of the fund will be allowable.

### **34) Investment of Funds**

Funds will be invested in accordance with investment policy approved by the Trustees.

## **Annex A—Procedure for the Collection of Charitable Donations**

### **1) General Information**

General guidance on receipt of donations is covered in section 3 of Endowment Funds Operating Instructions manual. Any donation of £10,000 or more should be notified to the Director of Finance who will be responsible for reporting this to the Trustees.

The board has a facility to allow donations to be made on-line over the internet which can be accessed via the website <http://www.shb.scot.nhs.uk/index.asp>

However donations can be taken by staff where copies of the donation record forms are held along with a register of donations folder. To obtain copies and be registered for use of collecting donations the Head of Finance and Procurement should be contacted.

Donations can accept from the following:

- From patients, relatives or visitors of patients.
- From charitable organisations
- From members of the general public.
- From employees.
- From local authorities.
- From the local business community.
- From special fundraising activities approved by the Trustees.

The following donations are considered unacceptable.

- From organisations where any association could bring the NHS into disrepute.
- From any organisation which may seek to gain publicity or use the fact of a donation in any advertising campaign that is not consistent with the aims and values of the NHS endowment fund.
- Any donation where it would appear that the NHS is endorsing or promoting any particular medicinal or other product.

### **2) Donation Record**

The donation record form, Annex B, should be completed along with the donor to record all the details the charitable fund needs to collect to comply with best practice guidelines.



The completion of the e-mail address of the donor is voluntary but those providing this detail will receive a receipt by e-mail for acknowledgement of the funds.

If the donor wishes the donation to be treated as "Gift Aid" the Inland Revenue (HRMC) require that we collect the donor's name and address including postcode.

The benefit to the charity of the donor opting to "Gift Aid" is that HRMC will increase the value of the amount being donated by 25%.

When the donor wishes to "Gift Aid" the donation a line should be scored over No and the individual asked to sign the form as a declaration of consent for gift aid. Were the donor does not wish to gift aid then a line should be scored through Yes.

The last box should be used to identify any restrictions the donor wishes to place on the donation.

However if the donor has written a letter expressing their wishes for the use of the funds then just annotate in box see attached letter and staple to the form a copy of the letter.

Issues you may wish to clarify with the donor over restrictions of the fund are:

- For a specific service area, for example Ward 1;
- For a specific condition, for example Dementia Care;
- For patient care;
- For a piece of specific equipment, for example Cardiac Monitor For staff benefits training and development; or
- For staff social benefits.

Once the form has been completed and donor left the details of the donation should be completed in the register of donations, Annex C, and the donation stored in the local secure safe or cabinet.

The finance department should be contacted on extension 3181 to arrange for the collection of the donation. However as donations may be received when the finance department is not open alternatively they can be e-mailed on [robertawu@nhs.net](mailto:robertawu@nhs.net).

When the donation is collected by finance they should be asked to complete the register of donations to acknowledge receipt of transfer of the donation to finance.

**Annex B—Shetland Health Charitable Trust – Donation Record**

Reference No: \_\_\_\_\_

**Shetland Health Charitable Trust Donation Record**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_ **Postcode:** \_\_\_\_\_

**E-mail Address:** \_\_\_\_\_

**Value of Donation Made:** \_\_\_\_\_

If you pay income tax in the UK you can increase the amount of donation made by gift aiding your donation and HRMC will contribute an additional 25p for each £1 donated. Further information on how “Gift Aid” works is available on the HRMC website at the following link [http://www.hmrc.gov.uk/charities/gift\\_aid/basics.htm](http://www.hmrc.gov.uk/charities/gift_aid/basics.htm) or Annex D.

**Gift Aid: YES / No (Please Circle)**

**If Gift Aiding Please Sign Here:** \_\_\_\_\_

Please specify any limitation on use or specifics about use of your donation, unless specified otherwise will be to the Board’s General Endowment Fund:

Registered with the Office of the Scottish Charity Regulator: Scottish Charity Number – SC011513.



## **Annex D—Gift Aid**

The following information is a direct lift from MH Revenue and Custom website from January 2013. [http://www.hmrc.gov.uk/charities/gift\\_aid/basics.htm#1](http://www.hmrc.gov.uk/charities/gift_aid/basics.htm#1)

### **1) How Gift Aid works Tax relief for charities**

Gift Aid is an easy way to help your charity or CASC maximise the value of its donations. You can reclaim tax from HM Revenue & Customs (HMRC) on the 'gross' equivalent of donations, their value before tax was deducted at the basic rate, currently 20 per cent. You can work out the amount of tax you can reclaim by dividing the amount donated by four. This means that for every £1 donated, you can claim an extra 25 pence.

### **2) Tax relief for donors**

If a donor is a higher or additional rate taxpayer, they too can benefit from tax relief as they can claim relief equal to the difference between the higher rate of tax at 40 per cent or 50 per cent and the basic rate of tax at 20 per cent on the total value of the donation - a total of 20 per cent and/or 30 per cent. So if £1 was donated, the 'grossed up' donation would be £1.25 and a donor liable at the 40 per cent tax rate could claim relief of 25 pence (20 per cent of £1.25).

The donor must pay at least as much UK tax (Income Tax and/or Capital Gains Tax) as the amount of Income Tax that you're reclaiming. If a donor makes a number of Gift Aid donations, including to other charities and CASCs, they must pay a sufficient amount of UK tax on the total amount of those donations and they may be required to pay any shortfall in tax paid to HMRC. You must advise the donor of their tax requirement and keep a record of your notification along with the donor's confirmation - known as a Gift Aid declaration.

### **3) Donations that qualify for Gift Aid**

Gift Aid can only be claimed on gifts of money from individuals, sole traders or partnerships, in any of the following forms:

- cash
- cheque
- Direct Debit
- credit or debit card
- postal order
- standing order or telegraphic transfer

Gifts made by cheque only count as received once the cheque has cleared. Your charity or CASC can accept gifts of money made in sterling or any foreign currency.

#### **4) Payments that don't qualify for Gift Aid**

These include:

- donations of money from a company
- donations in the form of a loan waiver or debt conversion - for example an individual may lend money to your charity or CASC and then, at a later date, agree that it does not have to be paid back - this is not a gift of money it is the waiver of a loan
- gifts made on behalf of other people for example a membership subscription paid on behalf of somebody else - this is a gift of membership from the payer to the member not a gift made to the charity or CASC
- gifts that come with a condition about repayment
- gifts with a condition that the charity buys goods or services from the donor payments received in return for goods or services - these are not gifts - for example payment for admission to a concert, payment for a raffle ticket, an entrance fee for an adventure challenge event
- a 'minimum donation' where there is no choice about payment - this is simply a fee for goods or services, it is not a gift
- gifts made using 'charity vouchers' or 'charity cheques'
- donations received before the date that HMRC accepts your organisation as a CASC or a charity for tax purposes

## Annex E—Expenditure Guidelines

### 1) Making a Purchase

*(a) Email Head of Finance & Procurement with details of your planned expenditure.*

Information required:

- Description
- Cost (including any known ongoing revenue costs such as maintenance / end of life removal costs)
- Evidence that the purchase meets the criteria set out in Section 7 above
- What endowment fund is to be used (Annex F)
- [karlwilliamson@nhs.net](mailto:karlwilliamson@nhs.net)

*(b) Head of Finance & Procurement will respond informing you whether your request has been approved or rejected.*

*(c) If approved, please place the order on PECOS using the generic Log In details below.*

Username shendowments

P/W shendowments

Please complete the order thoroughly ensuring that the Job Code is entered to reflect the correct fund. A list of Job Codes is shown in Annex F.

Cost Centre and Account Codes will default to correct code so can be ignored.

PECOS orders will be routed through the appropriate authorisation channels before being transmitted to the supplier.

*(d) If you have any problems using PECOS (Supplier not on system ) please contact the Supplies Team.*

## 2) Reclaiming Expenses

The Endowment Fund is regularly used to provide training for staff and it is often the case that the staff member will have to pay for travel and accommodation up front and reclaim the expenses. In these circumstances please reclaim through eExpenses in the normal manner and complete the below transfer form which will move the costs from your default department to Endowments.

<http://9.200.150.6/internal/healthcare/support/finance/index.asp> /Reallocation of Staff Travel and Subsistence Expense Form

Completed forms should be sent to the Finance Department for processing.

## **Annex F—Job Codes**

ZEND01	Board General Fund
ZEND02	Gilbert Halcrow
ZEND04	Staff Development Award
ZEND05	GBH Cancer
ZEND06	GBH Child Health
ZEND07	GBH OPD & Theatre
ZEND07A	GBH A&E
ZEND08	GBH Resus Trolley
ZEND09	GBH Ward 1
ZEND10	GBH Ward 3
ZEND11	GBH Rehab
ZEND12	GBH Renal
ZEND13	GBH Maternity
ZEND14	GBH Pain Clinic
ZEND15	GBH General Fund
ZEND16	GBH Hospital Equipment
ZEND21	Daniel Sinclair Fund (Hospital)
ZEND22	Daniel Sinclair Fund (Community)
ZEND23	Andrew Smith of Isleburgh House Scholarship Fund
ZEND24	Peter Scott Goodlad Bequest
ZEND25	John Sinclair Fund
ZEND26	Marc Hutchieson Fund
ZEND27	Community Nursing



ZEND28 Diabetes  
ZEND29 Mental Health  
ZEND36 Brae Health Centre Gardens  
ZEND38 Health Education  
ZEND41 Samuel Mulla Fund  
ZEND42 Sanctuary  
ZENDCT19 Covid19 Appeal  
ZENDSCAN MRI SCANNER APPEAL

## Annex G—Request for Endowments Funds Flowchart

Request for Endowment Funds—Only relevant for internal requests - The request should not be substitute for a core provision within the NHS Board's financial plans. Nor should endowment funds be used to cover a responsibility of the NHS Board that is a direct requirement of health and safety or employment law or a ministerial policy direction. Please see endowments charter for further information: <http://www.shb.scot.nhs.uk/board/documents/EndowmentFundsCharter.pdf>

For Capital Management Group submissions please contact [ruth.hitchin@nhs.net](mailto:ruth.hitchin@nhs.net).

