

## Board of Directors – Meeting held in Public

**10 November 2022**

<b>Paper title:</b>	Approval of the Supplemental Deed of Declaration for the Charity	<b>Agenda Item</b>  <b>20</b>
<b>Presented by:</b>	Mike Woodhead, Director of Finance, Contracting and Estates	
<b>Prepared by:</b>	Stacey Pearson, Head of Financial Accounting & Capital	
<b>Committees where content has been discussed previously</b>	Charitable Funds Committee, 27 <sup>th</sup> October 2022.	
<b>Purpose of the paper</b> Please check <u>ONE</u> box only:	<input checked="" type="checkbox"/> For approval <input type="checkbox"/> For information <input type="checkbox"/> For discussion	
<b>Link to Trust Strategic Vision</b> Please check <u>ALL</u> that apply	<input type="checkbox"/> Providing excellent quality services and seamless access <input type="checkbox"/> Creating the best place to work <input type="checkbox"/> Supporting people to live to their fullest potential <input type="checkbox"/> Financial sustainability, growth and innovation <input checked="" type="checkbox"/> Governance and well-led	
<b>Care Quality Commission domains</b> Please check <u>ALL</u> that apply	<input type="checkbox"/> Safe <input type="checkbox"/> Caring <input type="checkbox"/> Effective <input checked="" type="checkbox"/> Well-Led <input type="checkbox"/> Responsive	

<b>Purpose of the report</b>
<p>The purpose of this paper is to provide the Board with the changes required for both the charity Trust Deed and the charity bank account for the following amendments;</p> <ul style="list-style-type: none"> <li>• Change of the charity name to '<b>Better Lives NHS</b>'</li> <li>• Addition of a dissolution clause within the existing Charity Trust Deed, recommended by the Charities Commission for all NHS charities.</li> </ul> <p>The above amendments were presented and approved at the Charitable Funds Committee on 27<sup>th</sup> October 2002.</p> <p>On behalf of the Board of Directors of Bradford District Care NHS Foundation Trust Charitable Fund (Better Lives NHS) acting as Corporate Trustee, the Board are required to approve any changes to the Trust Deed for the charity.</p> <p>The original Trust Deed for the charity is provided in <b>Appendix A</b></p>

## Executive Summary

The purpose of this paper is to provide the Charitable Funds Committee with the changes required for both the charity Trust Deed and the charity bank account for the following amendments;

- Change of the charity name to '**Better Lives NHS**'
- Addition of a dissolution clause within the existing Charity Trust Deed, recommended by the Charities Commission for all NHS charities.

### CHARITY NAME CHANGE

On review of the Charity Commission website, there are now several other charities setup which have a very similar name. We therefore proposed a small amendment to the name of the charity from '**Better Lives**' charity to '**Better Lives NHS**' charity.

### ADDITION OF A DISSOLUTION CLAUSE WITHIN THE CHARITY DEED

In addition to the request required to change the name of the charity; the existing Trust Deed also requires updating to include a dissolution clause (clause I). It is recommended by the Charity Commission within their model deed for NHS charities, that a final dissolution clause is present within a Trust Deed.

In order to change the name of the charity and include a new clause in dissolution, the Charity Commission requires a Supplemental Deed of Declaration for each and signed by two Trustees of the charity.

**Appendix A** – Original Trust Deed, signed 28<sup>th</sup> April 2009

**Appendix B** – Supplemental Deed of Declaration, change of charity name

**Appendix C** – Supplemental Deed of Declaration, addition dissolution clause (clause I)

Do the recommendations in this paper have any impact upon the requirements of the protected groups identified by the Equality Act?

- Yes**
- No**

## Recommendation(s)

The Board of Directors is asked to:

- **Note** the Charity Commission requirements in order to make the changes to the Trust Deed.
- **Note** the changes to the Trust Deed and bank account have been presented and approved at the Charitable Funds Committee on 27<sup>th</sup> October 2022.
- **Approve and sign** the supplemental deed of declaration for the change of the charity name to 'Better Lives NHS'.
- **Approve and sign** the supplemental deed of declaration for the addition dissolution clause, as recommended in the model deed provided by the Charity Commission, for NHS charities.
- **Approve** the change the bank account name to 'Better Lives NHS'.

<b>Relationship to the Board Assurance Framework (BAF)</b>	
<p>The work contained with this report links to the following strategic risks as identified in the BAF:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> <b>SO1:</b> Engaging with our patients, service users and wider community to ensure they are equal partners in care delivery (QSC)</li> <li><input type="checkbox"/> <b>SO2:</b> Prioitising our people, ensuring they have the tools, skills and right environment to be effective leaders with a culture that is open, compassionate, improvement-focused and inclusive culture (WEC)</li> <li><input type="checkbox"/> <b>SO3:</b> Maximising the potential of services to delivery outstanding care to our communities (QSC)</li> <li><input type="checkbox"/> <b>SO4:</b> Collaborating to drive innovation and transformation, enabling us to deliver against local and national ambitions (Board)</li> <li><input checked="" type="checkbox"/> <b>SO5:</b> To make effective use of our resources to ensure services are environmentally and financially sustainable and resilient (FBIC)</li> <li><input type="checkbox"/> <b>SO6:</b> To make progress in implementing our digital strategy to support our ambition to become a digital leader in the NHS (FBIC)</li> </ul>	
<b>Links to the Strategic Organisational Risk register (SORR)</b>	<p>The work contained with this report links to the following corporate risks as identified in the SORR:</p> <ul style="list-style-type: none"> <li>• Risk 2536: If we do not make effective use of our resources this may result in regulatory interventions, as well as impacts on quality of services</li> </ul>
<b>Compliance &amp; regulatory implications</b>	<p>The following compliance and regulatory implications have been identified as a result of the work outlined in this report:</p> <ul style="list-style-type: none"> <li>• Corporate Trustee of the Charitable Funds governed by the law applicable to Trusts principally the Trustee Act 2000 and the Charities Act 1993, as amended by the Charities Act 2011</li> <li>• The trustee shall comply with its obligations under Part VI of the Charities Act 1993 as amended by the Charities Act 2006 (or any statutory re-enactment or modification of those Acts)</li> </ul>

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### Approval of the Supplemental Deed of Declaration for the Charity

#### 1. INTRODUCTION

The purpose of this paper is to provide the Charitable Funds Committee with the changes required for both the charity Trust Deed and the charity bank account for the following amendments;

- Change of the charity name to '**Better Lives NHS**'
- Addition of a dissolution clause within the existing Charity Trust Deed, recommended by the Charities Commission for all NHS charities.

Bradford District Care NHS Foundation Trust is the Corporate Trustee of the Charitable Funds governed by the law applicable to Trusts principally the Trustee Act 2000 and the Charities Act 1993, as amended by the Charities Act 2011. The Trust Board has devolved responsibility for the on-going management of funds to the Charitable Funds Committee which administers the funds on behalf of the corporate trustee. However, the Board are required to approve any changes to the Trust Deed for the charity.

The trustee can amend the provisions of the Trust Deed, provided that;

- (a) no amendment shall be made to clause B except to reflect a change of trusteeship determined and given legal effect, or agreed to in writing, by the Department of Health.
- (b) no amendment may be made to clause C (the objects clause) unless it appears to the trustee that, as a result of a re-organisation of services provision, the objects can no longer provide a suitable and effective method of using the trust fund;
- (c) no amendment can be made to clause C (the objects clause) or this clause without the prior consent in writing of the Commission.
- (d) no amendment may be made which has the effect of the Charity ceasing to be a charity at law.
- (e) any amendment shall be made by deed.
- (f) the trustee must send to the Commission a copy of any amendment made under this clause.

## 2. CHARITY NAME CHANGE

On review of the Charity Commission website, there are now several other charities setup which have a very similar name. We therefore proposed a small amendment to the name of the charity from '**Better Lives**' charity to '**Better Lives NHS**' charity. A paper went to the Charitable Funds Committee on the 28th July 2022 and approval was given to amend the name of the charity to 'Better Lives NHS'.

## 3. ADDITION OF A DISSOLUTION CLAUSE WITHIN THE CHARITY DEED

In addition to the request required to change the name of the charity; the existing Trust Deed also requires updating to include a dissolution clause (clause I). It is recommended by the Charity Commission within their model deed for NHS charities, that a final dissolution clause is present within a Trust Deed.

The proposal is to add an additional clause into the existing deed, using the wording recommended by the Charity Commission. The clause is as follows;

### ***I Dissolution***

***If it appears to the trustee that the objects no longer provide a suitable and effective method of using the trust fund, the trustee shall in these circumstances, but only so far as the trusts attaching to any particular gift to the charity may permit, hold the trust fund upon trust to apply the income and at its discretion, so far as may be permissible, the capital for any charitable purpose relating to the national health service.***

## 4. CHARITY COMMISSION REQUIREMENTS

In order to change the name of the charity and include a new clause in dissolution, the Charity Commission requires a Supplemental Deed of Declaration for each and be signed by two Trustees of the charity. The Charity Funds Committee recommends to Board, to approve the amendment to the charity name and the additional clause to be added. On approval, the Supplemental Deed will be submitted to the Charity Commission and a copy to our bank provider (Barclays PLC), for the relevant amendments to be made. The Supplemental Deeds of Declaration are provided **in Appendix B and Appendix C**.

An advance request must be made to the Charity Commission, to inform them of the changes you are requesting. This was actioned by the Head of Financial Accounting on 14<sup>th</sup> October 2022. The Supplemental Deeds of Declaration cannot be submitted to the Charity Commission until they have acknowledged and approved that we can action our changes. On confirmation from the Charity Commission, the signed deeds will be submitted.