

**Framework Agreement
between the Department of Health and NHS England**

Annex A: Wider guidance

The following general guidance documents and instructions apply to NHS England. The Department may require NHS England to provide additional management information on an ad hoc basis. Where this is the case, the Department will provide NHS England with clear reasons for the request and will allow as much time as possible to comply with the request.

General

- Appropriate adaptations of sections of *Corporate Governance in Central Government Departments: Code of Good Practice* and its related guidance http://www.hm-treasury.gov.uk/psr_governance_corporate.htm
- *Managing Public Money* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/179695/mpm_whole.pdf.pdf
- *Code of Conduct for Board Members of Public Bodies* http://www.civilservice.gov.uk/wp-content/uploads/2011/09/code-of-conduct_tcm6-38901.pdf
- *Code of Practice for Ministerial Appointments to Public Bodies* <http://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2012/02/Code-of-Practice-2012.pdf>
- The Parliamentary and Health Service Ombudsman's *Principles of Good Administration* <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-administration>
- Consolidation Officer Memorandum, and relevant DCO letters
- The *NHS Records Management code of practice* http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationPolicyAndGuidance/DH_4131747
- Other relevant guidance and instructions issued by HM Treasury in respect of Whole of Government Accounts
- Other relevant instructions and guidance issued by the central departments
- Any statutory duties that are applicable to NHS England
- Specific instructions and guidance issued by the Department, including requests for information
- Any departmental plans to ensure continuity of services
- Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and are relevant to NHS England
- Guide to Cabinet Office Committees <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments>

Audit and Risk

- *Public sector internal Audit Standards* http://www.hm-treasury.gov.uk/d/public_sector_internal_audit_standards_december2012.pdf
- *Audit and Risk Assurance Committee Handbook* http://www.hm-treasury.gov.uk/d/audit_and_risk_assurance_committee_handbook.pdf
- *Treasury guidance management of Risk and Fraud: Principles and concepts*
 - <https://www.gov.uk/government/publications/orange-book>
 - HM Treasury guidance on tackling fraud

Finance

- *Government Financial Reporting Manual (FReM)*
http://www.hm-treasury.gov.uk/frem_index.htm
- Fees and Charges Guide, Chapter 6 of *Managing Public Money*
- Departmental Banking: A Manual for Government Departments, Annex 5.7 of *Managing Public Money*
- Relevant Dear Accounting Officer letters;
- *Regularity, Propriety and Value for Money*
http://www.esrc.ac.uk/images/Regularity_and_Propriety_tcm8-4769.pdf
- *Improving spending control*
http://www.hm-treasury.gov.uk/improving_spending_control.htm

HR

- *Model Code for Staff of Executive Non-departmental Public Bodies* (Cabinet Office)
http://www.civilservice.gov.uk/wp-content/uploads/2011/09/5_public_body_staffv2_tcm6-2484.pdf
- *DH Pay Framework for Very Senior Managers in Arms-Length*
<https://www.gov.uk/government/publications/pay-framework-for-very-senior-managers>

FOI

- Relevant Freedom of Information Act guidance and instructions (Ministry of Justice);

Estates and Sustainability

- *Greening Government Commitments*
<http://sd.defra.gov.uk/documents/Greening-Government-commitments.pdf>
- Government Property Unit National Property Controls and standards for office accommodation (available from DH)
- The Department of Health's Property Asset Management procedures (available from DH)

Information Governance and Security

- *The NHS Information Governance Toolkit*
<http://www.connectingforhealth.nhs.uk/systemsandservices/infogov>
- IA Standard No. 6: *Protecting Personal Data and Managing Information Risk* (available from DH)
- HM Government's *Security Policy Framework*
<http://www.cabinetoffice.gov.uk/resource-library/security-policy-framework>
- *The NHS Information Security Code of Practice*
<https://www.gov.uk/government/publications/security-policy-framework>
- *The NHS Confidentiality Code of Practice*
http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Managing_ourorganisation/Informationpolicy/Patientconfidentialityandcaldicottguardians/DH_4100550

Transparency

- The Prime Minister's commitments on transparency
<http://www.number10.gov.uk/news/statements-and-articles/2010/05/letter-to-government-departments-on-opening-up-data-51204>
- Guidance on Gov.UK website
<https://www.gov.uk/government/topics/government-efficiency-transparency-and-accountability>
- Cabinet office code of conduct for Board Members of Public Bodies
<http://www.bl.uk/aboutus/governance/blboard/BoardCodeofPractice2011.pdf>

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Annex B: Finance and accounting responsibilities

1. The Framework Agreement sets out the governance and accountability arrangements between the Department of Health and NHS England. This annex provides additional detail on the finance and accounting arrangements which complements the Framework Agreement itself.

Annual Expenditure Limits

2. The Secretary of State gives NHS England its financial allocation (both total revenue and total capital resource use) for the year in the Mandate (see paragraph 3.3.1 of the main agreement). As Accounting Officer, the Chief Executive ensures that, in any financial year, NHS England's spending in each of the following categories does not exceed the limit set by the Secretary of State for that year:
 - revenue (non ring-fence);
 - revenue (ring-fence);
 - capital;
 - annually managed expenditure; and
 - technical accounting/budgeting.
3. The Accounting Officer also ensures that:
 - NHS England's total spending on administration in any financial year does not exceed either the combined overall admin control limit for NHS England and CCGs or the limit for NHS England itself, both set by the Secretary of State as a subset of the revenue resource limit; and that
 - in any given year the cash usage of NHS England does not exceed the cash limit (allotment) for NHS England plus any payments received which are used to offset expenditure that would have otherwise scored against this limit.
4. Each of the controls referred to in paragraphs 2 and 3 above must be met individually.
5. In addition to its specific financial responsibilities, NHS England has a shared responsibility to facilitate the effective financial management of the health system, including delivery of the controls imposed upon the system by HM Treasury. Effective partnerships developed with other relevant bodies, particularly Monitor and the NHS Trust Development Authority will be the key to this.

Business planning

6. The NHS Act 2006 (as amended by the Health and Social Care Act 2012) requires NHS England to produce a business plan each year (see paragraph 3.3.3 of the main agreement). The plan must be costed: supporting guidance issued by the Department will provide the format and level of financial detail required. The budgets as set within the Mandate to NHS England for both administration and programme funded activity will be reissued with the planning guidance, incorporating any guidance on overall efficiencies relevant to the Department and its arm's length bodies.
7. The business plan needs to identify detailed revenue, capital and cash forecasts for grant-in-aid funded activity, and also equivalent expenditure associated with any other income sources. It needs to clearly identify the distinction between costs and income falling inside and outside the administration budget regime.

Grant-in-aid

8. Any grant-in-aid provided by the Department for the year in question will be voted in the Department's Supply Estimate and be subject to Parliamentary control.
9. The grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. NHS England will comply with the general principle that there is no payment in advance of need. Cash balances accumulated during the course of the year from grant-in-aid or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of NHS England. Grant-in-aid not drawn down by the end of the financial year shall lapse. Subject to approval by Parliament of the relevant Estimates provision, where grant-in-aid is delayed to avoid excess cash balances at the year-end, the Department will make available in the next financial year any such grant-in-aid that is required to meet any liabilities at the year end, such as creditors.
10. In the event that the department provides NHS England separate grants for specific (ring-fenced) purposes, it would issue the grant as and when NHS England needed it on the basis of a written request. NHS England would provide evidence that the grant was used for the purposes authorised by the department. NHS England shall not have uncommitted grant funds in hand, nor carry grant funds over to another financial year.

11. **Accounts** Paragraph 6.3 of the main agreement sets out the expectation, arising from Secretary of State's powers under the NHS Act 2006 (as amended by the Health and Social Care Act 2012), that the Department will have full access to NHS England's information and files. In relation to financial reporting, the Department is required by HM Treasury to report in-year financial performance and forecasts for all its arm's length bodies, by Estimate Line, and in a specified format, to a strict timetable. NHS England will comply with Departmental plans and schedules which enable the Department to meet HM Treasury deadlines, and the Department's overall financial planning to meet HM Treasury spending controls through the Shared Financial Planning Agreement.
12. NHS England will prepare consolidated annual accounts for each financial year ending 31 March, and interim accounts for shorter periods if required. These must contain NHS England's accounts, a consolidation of NHS England's accounts and the annual accounts of each CCG. The accounts are to be signed by NHS England's Accounting Officer. In relation to these accounts, NHS England will:
- ensure that accounts are prepared according to the form, content, methods and principles prescribed by the Secretary of State in his annual group accounting instructions;
 - submit draft accounts by a date to be specified by the Secretary of State, to the Secretary of State; and
 - submit the final accounts by a date to be specified by the Secretary of State, to the Secretary of State and the Comptroller and Auditor General (C&AG).
13. The C&AG will examine, certify and report on the consolidated annual accounts and lay copies of the accounts and the report on them before Parliament.
14. The NHS Act 2006 (as amended by the Health and Social Care Act 2012) also requires NHS England to publish an annual report on its activities (as set out in paragraph 4.7 of the main agreement). The report and accounts are to be made available on NHS England's website, in accordance with the guidance in the Government Financial Reporting Manual (FRoM).
15. The Secretary of State may, with the approval of HM Treasury, direct NHS England to prepare interim accounts.
16. The Accounting Officer will also ensure that NHS England participates fully in all agreement of balances exercises initiated by the Department, and in the form specified by the Department, and that it agrees income and

expenditure and payables and receivables balances both with other organisations within the Department's resource accounting boundary and, for the purposes of the WGA, with other government bodies outside that boundary. In doing so, NHS England should seek to agree all outstanding balances, but in any case should keep within any level of materiality set by the Department.

Audit

17. Section 8 of the main agreement sets out the high level requirements for audit.

18. To meet the requirements for internal audit, NHS England will:

- ensure the Department is satisfied with the competence and qualifications of the Head of Internal Audit and the requirements for approving appointments in accordance with Public Sector Internal Audit Standards;
- prepare an audit strategy, taking into account the Department's priorities, and forward the audit strategy, periodic audit plans and annual audit report, including NHS England's Head of Internal Audit's opinion on risk management, control and governance as soon as possible to the Department; and
- keep records of, prepare and forward to the Department an annual report on fraud and theft suffered by NHS England and notify the Department of any unusual or major incidents as soon as possible.

19. The Department is committed to the development of a group assurance model for itself and its arms' length bodies. NHS England has agreed to consider moving to a shared service model for internal audit provision once the contract period for its initial provider has expired. NHS England will engage with the Department in considering the options for the development of the group assurance model.

20. The Department's group internal audit service has a right of access to all documents prepared by NHS England's internal auditor, including where the service is contracted out. If, when the current contract expires, NHS England sources this service from the Health Group Internal Audit Service, that will include allowing the Department access to all previous audit documentation

21. For external audit, the C&AG audits NHS England's annual accounts and lays them before Parliament, together with his report. In the event that NHS England has set up and controls subsidiary companies, NHS

England will, in the light of the provisions in the Companies Act 2006, ensure that the C&AG is appointed auditor of those company subsidiaries that it controls and/or whose accounts are consolidated within its own accounts. NHS England shall discuss with the Department the procedures for appointing the C&AG as auditor of the companies.

22. The C&AG:

- will consult the Department and NHS England on who – the National Audit Office or a commercial auditor – shall undertake the audit(s) on his behalf, though the final decision rests with the C&AG;
- has a statutory right of access to relevant documents including, by virtue of section 25(8) of the Government Resources and Accounts Act 2000, those held by another party in receipt of payments or grants from NHS England;
- will share with the Department information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues impacting on the Department's responsibilities in relation to financial systems within NHS England; and
- will, where asked, provide the Department and other relevant bodies with regulatory compliance reports and other similar reports which the Department may request at the commencement of the audit and which are compatible with the independent auditor's role.

23. The C&AG may carry out examinations into the economy, efficiency and effectiveness with which NHS England has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under section 8 of the National Audit Act 1983. In addition, NHS England is to provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and is to use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.

Delegated authorities

24. Paragraph 9.5 of the main agreement requires NHS England to abide by any relevant cross-Government efficiency controls. The Secretary of State has approved the establishment of revised controls for NHS England, applicable specifically to and only for its expenditure on transition activities concerned with developing itself as a new organisation, where these activities will by their very nature be critical to the success of the system-wide reforms. These controls will be communicated to NHS England.

25. NHS England has authority to incur expenditure set out in its business plan without further reference to the Department, on the following conditions:

- NHS England will comply with its delegated authorities, which cannot be altered without the prior agreement of the Department, noting that authority to approve novel, contentious or repercussive proposals cannot be delegated from HM Treasury; and
- inclusion of any planned and approved expenditure in the budget will not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed.

26. NHS England will obtain the Department's prior written approval before entering into any undertaking to incur expenditure outside its delegations or not provided for in its business plan as approved by the Department. In addition, the Department's prior written approval is required when:

- incurring expenditure for any purpose that is or might be considered novel or contentious, or which has or could have significant future cost implications;
- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the Department;
- making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required; or
- carrying out policies that go against the principles, rules, guidance and advice in *Managing Public Money*.

27. For major projects, NHS England will participate in the Department's common assurance and approval process

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Annex C: Public-facing communications

General

1. This annex sets out the principles that govern how NHS England and the Department of Health work together to deliver effective and coherent communications in the spirit of common purpose.
2. To ensure that communication activities deliver real benefit for patients, the public, communities, stakeholders and the system itself, these principles will underpin all communications activities, creating an integrated communications approach for the health and care system as a whole.
3. To support this, NHS England's Director of Communications takes part in the cross-system Arm's Length Bodies Directors of Communications forum that will take ownership of the cross-system communications approach. NHS England and the Department of Health also ensure that relevant senior officials from their communications teams meet regularly, build effective working relationships and design detailed working practices.
4. The general principles underpinning the approach to communications to be followed by the NHS England and the Department are:
 - Mutual respect, co-operation and 'no surprises'
 - Value for money and avoiding duplication
 - A shared responsibility to promote and protect the public's health, aligning these activities where appropriate
 - The most effective communication using the most appropriate voice

Communications strategy and planning

5. NHS England and the Department develop annual communications and engagement strategies setting out their communications and marketing objectives and priorities. Where objectives are the same, the organisations will work together to ensure the associated activities are coherently aligned and add value to each other.
6. The ALB Directors of Communications forum plays a key role in ensuring communications strategies and planning across the health and care system are aligned and coherent.
7. As agreed by the Public Expenditure Committee (Efficiency and Reform) – PEX(ER) – major paid-for communications activity is incorporated into the annual health communication and marketing plans developed by the 'Health Hub'. The Hub structure has been developed across government to ensure value for money, reduce duplication and share expertise. The annual Health Hub communications and marketing plan is a requirement of the Cabinet Office's annual cross-government Proactive Communications Plan.

8. In addition, PEX(ER) agreed to a cross-government freeze on paid-for communications activity and a process managed by the Cabinet Office's Efficiency and Reform Group (ERG) to manage this. The process, and details of the operation of the control, has been communicated to NHS England separately by the Department.

Media handling

9. NHS England has established and will maintain independent relationships with all those interested in, or affected by its work, including the media. It has responsibility for dealing with media enquiries received relating to its work and the way in which it exercises its functions.
10. The Department and NHS England keep each other informed of plans for media announcements relating to NHS England or its work in line with the principle of 'no surprises' working. NHS England and the Department will alert each other to the proposed date of an announcement in advance and liaise to ensure plans take into account wider government and public sector business and that other government departments are involved as appropriate.
11. When it comes to the attention of the Department or NHS England that the media or any other organisation is intending to make public information related to NHS England or its work, NHS England or the Department will, where possible, bring this matter to the attention of the other.
12. The Department and NHS England will, where possible, bring to the attention of communications leads in each organisation issues creating media interest and expected media coverage which relates to the work of the Department or NHS England.

Announcements

13. To support the principle of partnership working described in the framework agreement and the commitment to 'no surprises', NHS England and the Department share a schedule of relevant planned announcements relating to NHS England. These are treated "in-confidence" by the receiving parties and care taken with onward circulation.
14. NHS England and the Department endeavour to give each other as much notice as possible to enable early discussions on all aspects of the announcement with relevant policy and communications leads from each organisation.
15. NHS England and the Department also share, in confidence and principally for information, a near-final draft of any relevant report to be published, including conclusions, any executive summary and recommendations.

Publications

16. 'Publications' in this section refers to documents such as annual reports, anything relating to the structure or operation of the organisation, and statutory reports such as accounts. It does not include green or white papers or any other significant statements of Government policy. In these cases the Department will commit to the principle of 'no surprises' wherever possible and endeavour to share drafts with NHS England officials for comment where appropriate.
17. There are separate arrangements for publication of official statistics and these are described in the Statistics section below.
18. To support the principle of partnership working described in the framework agreement and the commitment to 'no surprises', NHS England and the Department share a schedule of relevant forthcoming publications each month.
19. NHS England and the Department will, except in exceptional circumstances (for example where the publication is statistical in nature) share publications with each other ten working days before publication where possible for information and to allow clarification of any issues that may arise. NHS England and the Department's officials will liaise as necessary to provide briefing on the publication. NHS England and the Department will, whenever possible, send a final copy of the publication to each other's officials at least three days before publication. Where this period is shorter both parties will endeavour to allow as long as possible.
20. When it comes to the attention of NHS England and the Department that another Government Department or public body is intending to publish a report concerning the other party and its work, NHS England and the Department will, wherever possible, bring this matter to the other's attention.

Digital and channel strategy

21. The Department and NHS England use digital channels as their default channels for communications and services following the "digital first" channel strategy for health and care and the direction of travel set in the May 2012 Information Strategy for health and care, 'The Power of Information'.
22. Digital content and transactions for the public are delivered through the new single portal for health and care. NHS England manages the delivery of the single portal for health and care on behalf of the NHS, Public Health England, the Department and the social care policy team. The governance arrangements NHS England puts in place reflect this joint ownership.

Campaign activity

23. NHS England incorporate any major, public-facing campaign activity into the annual health communication and marketing plans developed by the Health Hub and agreed through the Efficiency and Reform Group process.
24. NHS England and the Health Hub will ensure there are appropriate opportunities for each other to inform marketing thinking and ensure a strategic fit with other campaigns across the health and care system. This will avoid unnecessary duplication and inefficient use of resource.

Statistics

25. Pre-announcement of statistical publications:

- a. The planned month of any statistical publications should normally be announced at least 12 months in advance. The precise date should be announced or confirmed at least 4 weeks in advance. To support the principle of co-operation, NHS England should inform the Department's Statistics Governance Team of any changes to planned publication dates for Official Statistics.

26. Sharing data in their final form for briefing:

- a. Official statistics in their final form, including any press release for publication of official statistics, will be shared with those officials and Ministers for whom pre-release access has been agreed no earlier than 24 hours before the formal time of publication. Access for briefing purposes is limited to requirements to brief Ministers or others who may be required to comment at the time of publication. A list of people should be agreed 10 working days in advance, by the lead official for statistics at NHS England, who will consult with the Department's Head of Profession if they judge necessary (current Departmental models for pre-release access may be consulted as a guide). NHS England will not provide media with embargoed access to the press release in advance of publication.

27. Sharing pre-publication data for other purposes:

- a. Official statistics may also, with the agreement of the lead official for official statistics at NHS England, be shared before publication for other purposes as set out below:
 - i. Statistical production: Sharing with the Department's analytical staff where those staff are directly involved in producing the statistics, or related Departmental statistical products.
 - ii. Quality assurance: Shared with named Departmental analysts and subject specialists, where there would be added value derived from expert Quality Assurance (QA)

- (either on the figures themselves, or on any statement of the Department's policy positions in the draft publication).
- iii. Supporting management action: Shared with named officials from the Department where it would be appropriate to support a specific management purpose (if, for example, it is evident that patient health or public finances would be protected by granting such access).
 - iv. Third party access: Where up-to-date data are needed for inclusion in a Department publication planned for release at the same time or shortly after the statistics are to be published.
- b. In all cases where pre-release access is agreed, the purpose, timings and names of individuals should be agreed in advance by the lead official for statistics. All pre-release access will be documented, and lists of people granted access will be made available on request. Where pre-release access has been granted, the pre-publication uses of the data will not exceed the stated purpose.