



NHS foundation trust accounting officer memorandum

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Introduction

1. The National Health Service Act 2006 (the Act) designates the chief executive of an NHS foundation trust as the accounting officer.
2. The principal purpose of the NHS foundation trust is the provision of goods and services for the purposes of the health service in England. The NHS foundation trust has a general duty to exercise its functions effectively, efficiently and economically.
3. The Act specifies that the accounting officer has a duty to prepare the accounts in accordance with the Act. An accounting officer has the personal duty of signing the NHS foundation trust's accounts. By virtue of this duty, the accounting officer has the further duty of being a witness before the Public Accounts Committee (PAC) to deal with questions arising from those accounts or, more commonly, from reports made to Parliament by the Comptroller and Auditor General (C&AG) under the National Audit Act 1983.
4. Associated with these duties are the further responsibilities that are the subject of this memorandum. It is incumbent on the accounting officer to combine these duties with their duties to the board of directors of the NHS foundation trust.
5. It is an important principle that, regardless of the source of the funding, accounting officers are responsible to Parliament for the resources under their control.

Responsibilities of Monitor

6. In relation to NHS foundation trusts, it is the responsibility of Monitor to be satisfied that the NHS foundation trust is compliant with its NHS provider licence.

The general responsibilities of an NHS foundation trust accounting officer

7. The accounting officer has responsibility for the overall organisation, management and staffing of the NHS foundation trust and for its procedures in financial and other matters. The accounting officer must ensure that:
 - there is a high standard of financial management in the NHS foundation trust as a whole
 - the NHS foundation trust delivers efficient and economical conduct of its business and safeguards financial propriety and regularity throughout the organisation
 - financial considerations are fully taken into account in decisions by the NHS foundation trust.

The specific responsibilities of an NHS foundation trust accounting officer

8. The essence of the accounting officer's role is a personal responsibility for:

- the propriety and regularity of the public finances for which he or she is answerable
- the keeping of proper accounts
- prudent and economical administration in line with the principles set out in *Managing public money*¹
- the avoidance of waste and extravagance
- the efficient and effective use of all the resources in their charge.

9. As accounting officer you must:

- personally sign the accounts and, in doing, so accept personal responsibility for ensuring their proper form and content as prescribed by Monitor in accordance with the Act
- comply with the financial requirements of the NHS provider licence
- ensure that proper financial procedures are followed and that accounting records are maintained in a form suited to the requirements of management, as well as in the form prescribed for published accounts (so that they disclose with reasonable accuracy, at any time, the financial position of the NHS foundation trust)
- ensure that the resources for which you are responsible as accounting officer are properly and well managed and safeguarded, with independent and effective checks of cash balances in the hands of any official
- ensure that assets for which you are responsible such as land, buildings or other property, including stores and equipment, are controlled and safeguarded with similar care, and with checks as appropriate
- ensure that any protected property (or interest in) is not disposed of without the consent of Monitor
- ensure that conflicts of interest are avoided, whether in the proceedings of the board of directors, or council of governors or in the actions or advice of the NHS foundation trust's staff, including yourself
- ensure that, in the consideration of policy proposals relating to the expenditure for which you are responsible as accounting officer, all relevant financial considerations, including any issues of propriety, regularity or value for money, are taken into account, and brought to the attention of the board of directors.

¹ www.gov.uk/government/publications/managing-public-money

10. An accounting officer should ensure that effective management systems appropriate for the achievement of the NHS foundation trust's objectives, including financial monitoring and control systems, have been put in place. An accounting officer should also ensure that managers at all levels:
- have a clear view of their objectives, and the means to assess and, wherever possible, measure outputs or performance in relation to those objectives
 - are assigned well-defined responsibilities for making the best use of resources (both those consumed by their own commands and any made available to organisations or individuals outside the NHS foundation trust), including a critical scrutiny of output and value for money
 - have the information (particularly about costs), training and access to the expert advice which they need to exercise their responsibilities effectively.
11. Accounting officers must make sure that their arrangements for delegation promote good management and that they are supported by the necessary staff with an appropriate balance of skills. Arrangements for internal audit should accord with the objectives, standards and practices set out in the *Public Sector Internal Audit Standards*.²

Advice to the board

12. An accounting officer has particular responsibility to see that appropriate advice is tendered to the board of directors and the council of governors on all matters of financial propriety and regularity and, more broadly, as to all considerations of prudent and economical administration, efficiency and effectiveness. Accounting officers will need to determine how and in what terms such advice should be tendered, and whether in a particular case to make specific reference to their own duty as accounting officer to justify, to the Public Accounts Committee (PAC), transactions for which they are accountable.
13. The board of directors and the council of governors of an NHS foundation trust should act in accordance with the requirements of propriety or regularity. If the board of directors, council of governors or the chairman is contemplating a course of action involving a transaction which you as accounting officer consider would infringe these requirements, however, you should set out in writing your objection to the proposal and the reasons for this objection. If the board of directors, council of governors or chairman decides to proceed, you should seek a written instruction to take the action in question. You should also inform Monitor of the position, if possible before the decision is taken or in any event before the decision is implemented, so that Monitor, if it considers it appropriate, can intervene in accordance with its responsibilities under the Act. If the outcome is that you are overruled, the instruction must be complied with, but your objection and the instruction itself should be communicated without undue delay to the

² www.gov.uk/government/publications/public-sector-internal-audit

NHS foundation trust's external auditors and to Monitor. Provided that this procedure has been followed, the PAC can be expected to recognise that the accounting officer bears no personal responsibility for the transaction.

14. If a course of action is contemplated which raises an issue not of formal propriety or regularity but relating to your wider responsibilities for economy, efficiency and effectiveness, it is your duty to draw the relevant factors to the attention of the board of directors and the council of governors and to advise them in whatever way you deem appropriate. If your advice is overruled, and the proposal is one which as accounting officer you would not feel able to defend to the PAC as representing value for money, you should seek a written instruction before proceeding. Monitor should be informed of such an instruction, if possible, before the decision is implemented. It will then be for Monitor to consider the matter, and decide whether or not to intervene.
15. If, because of the extreme urgency of the situation, there is no time to submit advice in writing in either of the eventualities referred to in paragraphs 13 and 14 before the decision is taken, you must ensure that, if the advice is overruled, both the advice and the instructions are recorded in writing immediately afterwards.

Appearance before the Public Accounts Committee

16. The C&AG may, under the National Audit Act 1983, carry out examinations into the economy, efficiency and effectiveness with which the NHS foundation trust has used its resources in discharging its functions. An accounting officer may expect to be called upon to appear before the PAC from time to time to give evidence on the reports arising from these examinations or reports following the annual certification audit, and to answer the PAC's questions concerning expenditure and receipts for which he or she is accounting officer. An accounting officer may be supported by one or two other senior officials, who may, if necessary, assist in giving evidence.
17. An accounting officer will be expected to furnish the PAC with explanations of any indications of weakness in the matters covered by paragraphs 8 to 15 above, to which their attention has been drawn by the C&AG or about which they may wish to question the accounting officer.
18. In practice, an accounting officer will normally have delegated authority to others, but cannot on that account disclaim responsibility or dilute his or her accountability. Nor, by convention, does the incumbent accounting officer decline to answer questions where the events took place before they took up their appointment: the PAC may be expected not to press the incumbent's personal responsibility in such circumstances.
19. The PAC has emphasised the importance it attaches to accuracy of evidence, and the responsibility of witnesses to ensure this, in order to ensure that relevant lines of enquiry may be pursued at its hearings. The accounting officer should ensure that he or she is adequately and accurately briefed on matters that are

likely to arise at the hearing. The accounting officer may, however, ask the PAC for leave to supply information not within his or her immediate knowledge by means of a later note. Should it be discovered subsequently that the evidence provided to the PAC has contained errors, these should be made known to the PAC at the earliest possible moment.

20. In general, the rules and conventions governing appearances of officials before parliamentary committees apply to the PAC, including the general convention that officials do not disclose the advice given to the board. Nevertheless, in a case where the procedure described in paragraph 13 was used concerning a matter of propriety or regularity, the accounting officer's advice, and its overruling by the board, would be disclosed to the PAC. In a case covered by paragraph 14, where the advice of an accounting officer has been overruled in a matter not of propriety or regularity but of prudent and economical administration, efficiency or effectiveness, the C&AG will have made clear in the report to the PAC that the accounting officer was overruled. The accounting officer should seek to avoid disclosing the advice given to the board, though subject to their agreement the accounting officer should be ready to explain the reasons for their decision.

Absence of an accounting officer

21. An accounting officer should ensure that he or she is generally available for consultation, and that in any temporary period of unavailability due to illness or other cause, or during the normal period of annual leave, there will be a senior officer in the NHS foundation trust who can act on his or her behalf if required.
22. If it becomes clear to the board of directors that an accounting officer is so incapacitated that he or she will be unable to discharge these responsibilities over a period of four weeks or more, the board of directors should appoint an acting accounting officer, usually the director of finance, pending the accounting officer's return. The same applies if, exceptionally, the accounting officer plans an absence of more than four weeks during which he or she cannot be contacted.
23. The PAC may be expected to postpone a hearing if the relevant accounting officer is temporarily indisposed. Where the accounting officer is unable by reason of incapacity or absence to sign the accounts in time for submission, the NHS foundation trust may submit unsigned copies pending the accounting officer's return. If the accounting officer is unable to sign the accounts in time for printing, the acting accounting officer should sign instead.

Sources

This document is based on the guidance outlined in *Managing public money*, published in July 2013.³

³ www.gov.uk/government/publications/managing-public-money