# Standing Financial Instructions

# Standing Financial Instructions – NHS England and NHS Improvement

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Policy Owner:
Adrian Snarr, Director of Financial Control, NHS England and NHS Improvement

Prepared by;
David Procter, Head of Assurance and Counter Fraud, NHS England and NHS Improvement
Brian Siyolwe, Finance Assurance Lead, NHS England and NHS Improvement

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# Purpose, Scope, Roles and Responsibilities and Audit and Risk Assurance Committee

# 1 Purpose

**1.1.1** Standing Financial Instructions (SFIs) are part of the Governance Manual for NHS England and NHS Improvement.

**1.1.2** SFIs are designed to ensure regularity and propriety of financial transactions. SFIs define the purpose, responsibilities, legal framework and operating environment of NHS England and NHS Improvement.

**1.1.3** SFIs should be read together with the Standing Orders and Schemes of Delegation

**1.1.4** All Executive Members, Non-Executive Members and all Officers should be aware of the existence of these documents and be familiar with their detailed provisions. The SFIs will be made available to all Officers on the intranet and internet website for each statutory organisation.

**1.1.5** Should any difficulties arise regarding the interpretation or application of any of these Standing Financial Instructions, the advice of the Chief Financial Officer or the Director of Financial Control should be sought before acting. The Director of Financial Control can be contacted by sending an email to: England.assurance@nhs.net

**1.1.6** Failure to comply with the Standing Orders, the Standing Financial Instructions and the Schemes of Delegation, may result in disciplinary action in accordance with the NHS England and NHS Improvement applicable disciplinary policy and procedure in operation at that time.

# 2 Scope

**2.1.1** All Officers of NHS England and NHS Improvement, including hosted organisations, without exception, are within the scope of the Standing Financial Instructions and respective Standing Orders including and without limitation:

- National and Regional teams;
- Commissioning Support Units;
- NHS Sustainable Development Unit
- Strategic Clinical Networks;
- Healthcare Safety Investigations Branch (HSIB);
- Clinical Senates;
- Employees of NHS England under Health and Social Care devolution arrangements;
- NHS Leadership Academy;
- NHSX; and
- Supply Chain Coordination Ltd (appendix 16 only).

**2.1.2** Within this document, words imparting any gender include any other gender. Words in the singular include the plural and words in the plural include the singular. Any reference to an enactment is a reference to that enactment as amended.

**2.1.3** Unless a contrary intention is evident, or the context requires otherwise, words or expressions contained in this document, will have the same meaning as set out in the applicable statutory Act.

# 3 Roles and Responsibilities

## 3.1 Staff Responsibility

**3.1.1** All NHS England and NHS Improvement Officers are severally and collectively, responsible to their respective employer(s) for;

- abiding by all conditions of any delegated authority;
- the security of the statutory organisations property and avoiding all forms of loss;
- ensuring integrity, accuracy, probity and value for money in the use of resources; and
- conforming to the requirements of these SFIs.

**3.1.2** The Chief Executives for NHS England and NHS Improvement are designated as the Accounting Officers for the respective statutory organisations.

**3.1.3** NHS England, Monitor and the NHS Trust Development Authority remain separate statutory bodies, each with their own board and accounting officers (although the boards of Monitor and TDA operate together as a single board and the Boards all meet in common.

**3.1.4** The Accounting Officers are personally accountable to parliament for the stewardship of NHS England and NHS Improvement allocated resources.

**3.1.5** The Accounting Officers of the Statutory organisations have the delegated responsibility to ensure that, in relation to their respective organisation:

- the allocated annual revenue and capital resource limits are not exceeded (with exception to Monitor);
- use of resources is in accordance with the Accountability Framework and financial directions;
- the Governance statement and Annual Accounts & Reports are signed;
- planned budgets are approved by the relevant Board;
- Executive Members and other Officers are notified of and understand their responsibilities within the SFIs; and
- specific responsibilities and delegation of authority to specific job titles are confirmed.

## 3.2 Audit and Risk Assurance Committee

**3.2.1** In accordance with the Standing Orders, NHS England and NHS Improvement, are required to establish Audit and Risk Assurance Committees. For the purposes of the policy, the term , Audit and Risk Assurance Committee, refers to the NHS England Audit and Risk Assurance Committee and NHS Improvement Audit and Risk Assurance. Committee

**3.2.2** The terms of reference of the Committees must be drawn up and approved by the statutory Boards.

**3.2.3** The Audit and Risk Assurance Committees will advise the Boards and Accounting Officers on:

- the strategic processes for risk, control and governance and the Governance Statement;
- the accounting policies, the accounts, and the annual report of NHS England and NHS Improvement, including the process for reviewing of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors; and
- the planned activity and results of both internal and external audit.

**3.2.4** The Committees will review the work and findings of the external auditors and consider the implications of and management's response to their work.

**3.2.5** The Committees will review the annual reports and accounts before submission to the Board(s) for approval.

# Management & Financial Accounting, Cash Management

# 4 Management Accounting & Business Management

## 4.1 Budget Holders and Budget Managers

**4.1.1** Budget Holders have responsibility delegated to them by the Accounting Officers for the management of a budget.

**4.1.2** Most Budget Holders will have responsibility for budgets covering NHS England and NHS Improvement expenditure. These SFIs apply equally to expenditure incurred on NHS England and NHS Improvement cost centres.

**4.1.3** Under special circumstances (e.g. long-term absence, holiday cover) a Budget Holder can delegate authority to another employee, in accordance with these SFIs, to commit expenditure against the budget. This delegation must be in writing and must be notified to the Management Accounts team and must be accepted and noted for audit purposes.

**4.1.4** Budget Holders may appoint a Budget Manager for each budget and set out in writing the responsibilities of the Budget Manager and any other staff who contribute to management of budgets assigned to them, for example staff responsible for confirming receipt of goods or services. The Budget Holder must confirm to Finance when a Budget Manager has been appointed.

**4.1.5** The Chief Financial Officer has the responsibility to ensure that relevant training is available and delivered on an on-going basis to Budget Holders and Budget Managers to help them manage their budget successfully and improve financial literacy.

**4.1.6** Budget Holders must ensure that adequate internal controls are in place to ensure that:

- all expenditure is lawful and is incurred in accordance with the No Contract, No Purchase Order, No payment protocol;
- all expenditure is incurred or committed in accordance with the SFIs, the Procurement Policy and related annexes, including the appropriate levels of internal and external approval;
- planned and actual expenditure takes full account of the need to achieve value for money in terms of economy, efficiency and effectiveness;
- they meet with the designated management accountant regularly;
- forecasting of expenditure against budget is robust and where a budget allocation is no longer fully needed or where there is a risk of overspending this is reported to the Management Accounts team; and

- information can be supplied to the Chief Financial Officer as required to enable budgets to be compiled.

**4.1.7** For further detail on internal control requirements and a detailed list of all the Management Accounting and Group Accounting & Systems teams services provided to Budget Holders, please refer to the Budget Holder guide.

**4.1.8** Budget holders will be required to sign an annual delegation letter as acknowledgement of their responsibilities and accountability for the cost centres allocated to them for each year and to submit assurance certificates on a bi-annual basis.

**4.1.9** In making financial decisions, Budget Holders are expected to consider not only the impact of the decision on resources for the current year but also any potential resource implications for future years. Budget Holders must ensure that non-recurring budgets are not used to finance recurring expenditure.

**4.1.10** Budget Holders will be expected to bear the full financial consequences of their decisions from their delegated budgets.

**4.1.11** Payments for liabilities arising as a consequence of a decision taken in an earlier period (even where the decision was taken by a predecessor) still need to be reflected in the appropriate cost centre of the current financial year.

**4.1.12** Any likely overspending or reduction of income which cannot be met by virement should not be incurred without the prior consent of the Chief Financial Officer.

## 4.2 Budget allocations -Revenue and Capital allocations

**4.2.1** The government's accountability framework/mandate with NHS England and NHS Improvement sets out objectives and annual resource allocation based on two resource streams. Revenue resource limit (split between admin and programme); and capital resource limit

**4.2.2** NHS England and NHS Improvement are required not to exceed resource limits. The Accounting Officer for each organisation has overall responsibility for budgetary activities and are accountable to their respective Board for ensuring that the organisation stays within these limits. The operational responsibilities are delegated to the Chief Financial Officer

**4.2.3** The Chief Financial Officer will:

- provide reports in the form required by the Secretary of State for Health and Social Care;

- provide regular financial reports in the form agreed by the Boards;

- ensure money drawn from the Department of Health and Social Care against cash forecasts is required for approved expenditure only, and is drawn only at the time of need, following best practice as set out in HMT Managing Public Money; and

- be responsible for ensuring that an adequate system for monitoring financial performance is in place to enable NHS England and NHS TDA to fulfil their statutory responsibility not to exceed their annual revenue and capital resource limits and cash limit.

## 4.3 Budget Switches

**4.3.1** Transfers between revenue and capital allocations or admin to programme switches will only be considered at the request of NHS England and NHS Improvement to the Department of Health and Social Care. NHSEI may switch provision from resource allocation to the capital allocation but not from ring-fenced elements such as depreciation and impairments.

**4.3.2** For detailed operational guidance on virements, please refer to the Budget Holder guide.

## 4.4 Preparation and Approval of Financial Strategy and Budgets

**4.4.1** The NHS England and NHS Improvement Boards have reserved the power to approve the respective business plans (financial strategy) in accordance with the schemes of delegation.

**4.4.2** The government's accountability framework with NHS England and NHS Improvement includes the annual mandate & financial directions issued to NHS England and the annual remit letter issued to NHS Improvement by the Department of Health and Social Care.

**4.4.3** The Chief Executives for the respective statutory bodies will commission and submit to the Boards a joint business plan (financial strategy) that considers financial targets and forecast limits of available resource.

**4.4.4** Prior to the start of the financial year the Chief Financial Officer will, on behalf of the Chief Executives submit Budgets for approval by the Boards. Detailed operational guidance is included in the Budget Holder guide.

## 4.5 Budgetary control, planning and monitoring

**4.5.1** This control framework will include;

- periodic reports to the relevant Boards, Committees and Sub Committees, containing explanations of any significant variances from plan, and where necessary details of any corrective action. For further guidance on the control framework, please refer to the Budget holder guide.

- the issue of timely, accurate and comprehensible advice and financial reports to each Budget Holder, covering the areas for which they are responsible;

- regular and timely budget meetings with Budget Holders and /or Budget Managers; and

- arrangements for the authorisation of budget transfers between Budget Holders.

- the Chief Financial Officer will devise and maintain systems for budgetary control. This responsibility will be delegated to the finance teams for NHS England and NHS Improvement. The teams will set the framework for budgetary control.

## 4.6 Breach of Budgetary limits

**4.6.1** Any expenditure by NHS England and NHS Improvement which falls outside the coverage of Parliament's approval of NHSEI delegated authorities is 'irregular' unless specific approval has been given by the HM Treasury. Irregular expenditure cannot legally be met from funds granted by Parliament.

**4.6.2** Delegated authorities are governed in many cases by external spending controls imposed by the Cabinet Office, HM Treasury or the Department of Health and Social Care.

**4.6.3** Any expenditure which is not appropriately authorised is likely to be considered as unauthorised. Please refer to the Business case policy for detailed guidance.

# 5 Banking Arrangements, Income & Debt Recovery

## 5.1 Cash Management

**5.1.1** The Chief Financial Officer is responsible for ensuring the effective management of NHS England and NHS Improvement banking arrangements and for advising the Boards on the provision of banking services and operation of accounts, including the provision and use of procurement, corporate or other card services. This advice will consider guidance/directions issued from time to time by the Department of Health & Social Care and HM Treasury.

**5.1.2** The Chief Financial Officer will put in place arrangements to ensure payments made from Government Banking Service accounts do not exceed the amount credited to the account except where arrangements have been made.

**5.1.3** The Chief Financial Officer will prepare banking operational guidance on the operation of bank accounts which must include:

- the conditions under which each bank account is to be operated;
- how risks of fraud and overpayments are to be assessed, evaluated, prevented, countered systemically and managed when discovered; and
- when and how payment by procurement/corporate cards or direct debits are acceptable.

**5.1.4** NHS England and NHS Improvement must use accounts arranged through the Government Banking Service (GBS).

## 5.2 Government Banking Service

**5.2.1** The Chief Financial Officer will ensure that to action transactions governed by the bank mandates, there must be two approved signatories, which are listed on the mandates; and one of the signatories, must be either the Chief Financial Officer or the Director of Financial Control.

**5.2.2** The Chief Financial Officer is responsible for ensuring that detailed instructions on the operation of GBS accounts are prepared, which must include:

- the conditions under which each GBS account is to be operated; and

- those authorised to sign payable orders or other orders drawn on NHS England and NHS Improvement accounts.

## 5.3 Debt Recovery

**5.3.1** Budget Holders and Budget Managers are responsible for ensuring that all debts that are being written off are authorised in accordance with the Losses and Special payment process whilst ensuring:

- that all income due to NHS England and/or NHS Improvement is identified;
- that appropriate action is taken to recover these sums promptly; and
- that they have procedures in place to achieve this. This includes ensuring that contractual (standard NHS contracts) agreements are in place before services are provided.

**5.3.2** The Chief Financial Officer is responsible for promoting procedures to recover all outstanding debts.

**5.3.3** Any other systems used to carry out these functions must be approved by the Chief Financial Officer. Where payment is not received within the debt management timescales further recovery action will be taken.

**5.3.4** Budget Holders and Budget Managers should ensure that all contractual documents are made available to Finance in order to facilitate the debt collection process through the outsourced service provider.

**5.3.5** The Chief Financial Officer will nominate Officers that are authorised to sign court documentation in relation to the recovery of outstanding debts, on behalf of NHS England and/or NHS Improvement, where it is deemed necessary to use the services of a professional debt recovery.

**5.3.6** The use of professional debt recovery companies should be approved by the Chief Financial Officer.

**5.3.7** Where debt cannot be recovered it must be written off in accordance with the losses and special payment governance procedure or a credit note requested by the Budget Holder.

**5.3.8** Income not received should be dealt with in accordance with losses procedures.

## 5.4 Income and contracting

**5.4.1** The Chief Financial Officer is responsible for:

- ensuring systems are in place for the proper recording, invoicing, and collection and coding of all monies due; and

- ensuring systems are in place for the prompt banking of all payable orders and negotiable instruments received.

**5.4.2** The Chief Financial Officer will arrange to register with HM Revenue and Customs if required under money laundering legislation.

## 5.5 Fees and Charges

**5.5.1** The Chief Financial Officer is responsible for putting into place arrangements that ensure all fees and charges follow the guidance laid down by HM Treasury.

**5.5.2** This includes approving and regularly reviewing the level of all fees and charges other than those determined by statute and by the Department of Health & Social Care. Independent professional advice on matters of valuation should be taken as necessary.

## 5.6 Sponsorship Income and Gifts

**5.6.1** NHS England and NHS Improvement Officers have a responsibility to ensure that they are not placed in a position that compromises or appears to compromise their role in NHS England and NHS Improvement's public or statutory duties. They should not, nor should they be perceived to, secure valuable gifts and hospitality by virtue of their role in either organisation if this would give the impression that they have been influenced or are deemed to be influencing while acting in an official capacity.

**5.6.2** NHS England and NHS Improvement are required to disclose in their Annual Accounts, all sponsorship and gifts received or given if they exceed the value of £300k. Sponsorship or gifts received or given should be recorded in the respective organisations register, detailing the estimated value and what happened to the sponsorship or gift (whether they were retained, disposed of or accepted). For operational guidance on sponsorship, please refer to the aligned Standards of Business Conduct Policy

## 5.7 CSU contracts, variations, sales and credit note delegated limits.

**5.7.1** Appendix 12 provide details of approval limits that are applicable to the signing of income (sales) contracts and variations to those contracts, excluding service level agreements, memoranda of understanding (MOU) and contracts for services provided to Clinical Commissioning Groups, NHS England for Direct Commissioning Support and other commissioners provided by Commissioning Support Units.

**5.7.2** CSU Managing Directors or Director of Financial Control are authorised to sign and approve CSU contracts, contract variations, sales and credit note requests against service level agreements and contracts for services provided to Clinical Commissioning Groups, NHS England for direct commissioning support and other commissioners without financial limit, subject to the value being in line with the signed agreement or contract.

**5.7.3** The appropriate signing level for contract variations will be determined by considering the revised whole life value of the contract, including the variation. Please note the contract signing limits in appendices 3 and 4 for NHS England and NHS Improvement.

# 6 Financial Systems and Processes

## 6.1 Provision of Finance System and Integrated Single Financial Environment (ISFE) & Business Intelligence

**6.1.1** The Chief Financial Officer is responsible for ensuring systems and processes are designed and maintained for the recording and verification of finance transactions such as payments and receivables for NHS England and NHS Improvement.

**6.1.2** The systems and processes will ensure inter alia that payment for goods and services is made in accordance with the provisions of these SFIs, related procurement guidance and good payment practice.

**6.1.3** Where a Budget Holder certifying amounts for payment relies upon information from other Officers, the Budget Holder must ensure there is adequate independence of the Officers involved.

**6.1.4** As part of the contractual arrangements for NHS England and NHS Improvement joint role employees, will be granted access to the ISFE system, based on single access log on details to enable them to authorise, approve and code expenditure/income in fulfilment of their roles as Budget Holders.

**6.1.5** The Group Accounting & Systems team, Management Accounting team and Commercial Directorate are responsible for ensuring the availability of ISFE and Business Intelligence. Further guidance on training and any other matters can be found by clicking on the link.

# Clinical & non-Clinical Procurement and Staff costs & staff related non-pay expenditure

# 7 Procurement and Purchasing

## 7.1 Principles

**7.1.1** As a public sector organisation, we must ensure that we procure in a manner that fully complies with the Public Contracts Regulations 2015 (PCR) and associated statute requirements whilst securing value for money and sustainability. The Procurement Policy sets out all of the legislative requirements we must follow.

**7.1.2** All revenue non-pay expenditure must be approved, in accordance with the Business Case Policy, prior to an agreement being made with a third party that enters into a commitment to future expenditure. Once the expenditure request is approved, all procurement must be undertaken in accordance with the Procurement Policy.

**7.1.3** All officers must ensure that any conflicts of interest are identified, declared and appropriately mitigated or resolved in accordance with the Standards of Business Conduct Policy.

**7.1.4** Budget holders are accountable for obtaining the necessary approvals and oversight of all expenditure incurred on the cost centres they are responsible for.

**7.1.5** Officers must ensure that they:

- Obtain the necessary internal and external approvals (please refer to the Business case policy) which vary based on the type of spend, prior to procuring the goods, services or works;
- Procure the goods, services or works in accordance with the instructions in this document, the Procurement Policy and associated operational guidance to ensure that procurement is fully compliant;
- Officers must ensure that they manage the contract in accordance with the Contract Management Frameworks;
- Undertake any contract variations or extensions in accordance with the instructions in this document which ensure compliant with Public Contracts Regulations 2015 and
- Utilise Purchase Orders, Prepayments and Corporate Procurement Cards in accordance with the instructions in this document, the Corporate Procurement Card policy and associated guidance.

**7.1.6** Retrospective expenditure is not permitted. Any breaches will require approval by a National or Executive Regional Director before the liability will be paid. Such breaches are reported to the Audit and Risk Assurance Committee.

## 7.2 Non-Clinical Commercial Pipeline

**7.2.1** Budget holders are required to maintain a rolling 18-month Commercial pipeline of all upcoming non-pay revenue expenditure and contract renewals. This pipeline, generated and maintained through business planning and based on directorate strategies, is required to enable accurate forecasting and ensure that time and resource is available to drive value for money and sustainability throughout the procurement.

**7.2.2** The requirements of the Commercial Pipeline are detailed in the Procurement Policy.

**7.2.3** Commercial pipeline requirements do not apply for CSU expenditure on their own activity.

## 7.3 Contracts five years or more in length

**7.3.1** Non-Clinical - all non-clinical procurements, including regional and CSU procurements on their own activities with a proposed length (including extension periods) of five years or more must be submitted for Commercial Executive Group review, prior to the commencement of procurement. This applies irrespective of the value of the proposed expenditure and funding type.

**7.3.2** Clinical - all clinical procurements with a proposed length (including extension periods) of ten years or more or a lifetime contract value of £500m or higher, must be submitted for Commercial Executive Group review, prior to the commencement of procurement

## 7.4 Approval to Commit Funds

**7.4.1** Business case approval limits are based on the anticipated whole lifetime cost of the contract including irrecoverable VAT. If irrecoverable VAT is excluded from the initial approved expenditure value, then a further business case will be required to cover these costs.

**7.4.2** All procurement limits stated in these SFIs are exclusive of all VAT, unless otherwise specified.

**7.4.3** **Non-clinical** - Budget holders should submit expenditure requests through ISFE requisitions. Business cases are required for non-clinical spend where either:

- The expenditure is greater than £10,000 (including irrecoverable VAT); or

- The type of expenditure is subject to specific internal or central government efficiency controls as detailed in the Business Case Policy; or

- It is proposed to award a grant without competition; or

- It is proposed to award a contract without competition unless this is covered by an exemption or exception to the PCR (see the procurement policy for guidance); or

- a mandated supplier, as defined by the Procurement Policy, is not used.

**7.4.4** **Clinical** – A business case is required for clinical spend where:

- the expenditure is higher than the Light Touch Regime (LTR) Threshold. Guidance on the LTR is detailed in the Procurement Policy; or

- It is proposed to award a procurement or grant without competition unless this follows an exception defined in the procurement policy; or

- The contract has a proposed length (including extensions) of ten years or more.

**7.4.5** Non-clinical and clinical non-pay revenue expenditure is defined in the Business Case Policy. All queries on whether expenditure is clinical or non-clinical in nature or on the Light Touch Regime should be referred to the Commercial team.

**7.4.6** All officers are required to comply with the requirements of the Business Case policy unless a different approval process, defined below, is required:

- Transfers of funding between NHS organisations – an approved business case is not required. Any such cases should be discussed with finance to determine the appropriate process.

- Capital expenditure, including Property, Plant & Equipment and Capital Grants

- Revenue grant funding – see requirements defined in SFI11 and Revenue Grants Policy.

## 7.5 Procuring goods, works or services

**7.5.1** Aggregation

- Officers must not divide a proposed contract into smaller contracts to avoid the provisions of these SFIs, the Procurement Policy and external approval thresholds.

- The length of the proposed contract must be based on a rigorous assessment of service need and value for money.

- Where the duration and whole life value of a contract is not determined, you must speak to the commercial team.

## 7.6 Quotations and Tendering

**7.6.1** Officers must ensure that they obtain the minimum number of quotes defined in the Procurement Policy.

**7.6.2** Where a competitive procurement process is being undertaken, officers must follow the processes and guidance issued by the Commercial team.

**7.6.3** Evaluation criteria must be agreed in advance in collaboration with the commercial team as per the Procurement Policy. All queries on procurement must be referred to the Commercial team.

**7.6.4** Officers must maintain strict confidentiality of quotations and tender submissions pending their evaluation. Following evaluation confidentiality must be maintained subject to the Freedom of Information Act (FOIA) 2000.

**7.6.5** Where a proposed procurement falls within a goods or services category that is covered by a mandated supplier or central government purchasing framework, these must be used unless there is a clear value for money justification for using another route. Any such justification for choosing a different route must be agreed in advance with the Commercial team.

## 7.7 Non-Competitive Procurements

**7.7.1** All procurements should be made on a competitive basis unless it can be demonstrated that value for money can only be obtained through a non-competed process or in line with the exemptions stated in the Procurement Policy.

**7.7.2** All proposals to waive competition for non-clinical expenditure require a business case irrespective of their value. All proposals to waive competition require approval from either the Commercial Strategy Panel or Commercial Executive Group in accordance with their Terms of Reference.

**7.7.3** National or Executive Regional Directors can approve the appointment of a single provider of Clinical Services as a matter of extreme urgency to protect patients and to ensure continuity of care. Such instances must be reported to the Commercial Executive Group by the National or Executive Regional Directors concerned.

## 7.8 Procuring Services from a Commissioning Support Unit

**7.8.1** Officers procuring services up to £1m from a Commissioning Support Unit (CSU) should follow the CSU New Business Opportunity Approach defined in the Procurement Policy. If the services exceed £1m, the non-clinical business case process defined in the Business Case policy should be followed.

## 7.9 Contract Award

**7.9.1** Following the completion of the procurement process a Contract Award Report must be approved by the relevant Committee that approved the commercial strategy. The Contract Award report summarises the procurement, details any changes required to the approved commercial strategy and outlines key contractual factors that the signatory needs to be aware of.

- A Contract Award report applies to both clinical and non-clinical expenditure. The approved Contract Award report must be held (this may be in electronic format) alongside the contract.

## 7.10 Contract Signature

**7.10.1** Officers must ensure that the appropriate statutory organisation name (National Health Service Commissioning Board, NHS Trust Development Authority or Monitor) is utilised when entering into any third-party agreements.

**7.10.2** The Commercial team will arrange for the awarding and sign off the contract in accordance with the limits set in tables five and six . This includes service level agreements, memoranda of understanding, and other equivalent documents.

## 7.11 Managing contracts

**7.11.1** The Contract Management Toolkit must be used to manage and administer contracts in line with the requirement of the Third-Party Assurance Framework.

**7.11.2** All non-clinical contracts / agreements (including Memoranda of Understanding, Service Level Agreements, Framework Agreements (or call-off contracts under them), Lease Agreements, Licence Agreements, Grants) must be maintained on the Commercial Contracts Register.

**7.11.3** Regional or National Directors responsible for clinical contracts must ensure that all signed clinical contracts are securely held either with the Commercial team or in a location agreed with the Commercial team.

**7.11.4** Where any changes to standard NHS Terms and Conditions have been agreed a copy of this contract must be provided to the Commercial Team for inclusion on the Commercial Contracts Register.

**7.11.5** CSUs must hold contracts/agreements for their own expenditure in their individual contract registers.

## 7.12 Contract Variations and Extensions

**7.12.1** All extensions and variations to an existing contract must be reviewed in advance of being approved to confirm that they are legally possible, approval to commit funds through an approved business case has been obtained, they represent best value for money, including financial and non-financial aspects, and they are not being instigated solely to avoid or delay the requirement to conduct procurement

**7.12.2** Extensions to existing contracts can only be approved where:

- the value of the approved original business case covers the additional cost. If there is no provision in the original business case for the cost of the extension a new business case will be required; and
- contract performance is satisfactory, and the variation is in line with or complies with section 72 of the PCR. Regulation 72 covers the extent to which contracts can be amended without the need or a new advertised tender process.

**7.12.3** No variation can be granted to a contract awarded under the PCR threshold where the value of the variation results in the contract value exceeding the PCR threshold.

**7.12.4** The approval requirements for contract variations (the limit applies to the variation and not the original contract value) for clinical and non-clinical expenditure are detailed in appendix 7 – Approves for Contract Variations and Extensions. The requirements for CSU contract variations are detailed in appendix 13.

**7.12.5** Cumulative variations above 50% of initial total contract value may also be granted in limited circumstances. Any such requests must be authorised by the Commercial Executive Group.

**7.12.6** All extensions and variations must be agreed, documented, signed and countersigned by all parties or executed as a deed where necessary

## 7.13 Making commitments to suppliers through Purchase Orders

**7.13.1** All commitments to suppliers for goods, works and services must be made on an official purchase order generated from the finance system. All officers are required to follow this approach.

**7.13.2** The approval limits for the raising of purchase requisitions, purchase credit notes, invoices non-purchase order invoices and payments are detailed in appendix 8. The approval limits for CSU expenditure on their own activities is detailed in appendix 14.

**7.13.3** All purchase orders must be raised in advance of a commitment being entered and not on receipt of an invoice. An order raised after an invoice is received will be classed as retrospective and is a breach of SFIs.

**7.13.4** The purchase order must be in accordance with agreed contract value and length. There should consist of one contract and one purchase order with a scheduled payment profile.

**7.13.5** Purchase orders must only be receipted following the delivery of satisfactory goods or services.

**7.13.6** The use of non-PO approvals should be limited to the following exceptions: rent and rates payments; utilities suppliers; and exemptions highlighted in the Procurement Policy. Further advice should be sought from the Financial Control team.

## 7.14 Ensuring segregation of duties

**7.14.1** Officers must ensure that effective segregation of duties are maintained throughout the procurement process. This means that the same officer cannot both requisition and approve the procurement of any goods, services or works. This applies to transactions undertaken via purchase orders or on a non-purchase order basis.

## 7.15 Prepayments

**7.15.1** In general prepayments will not be permitted. Exceptionally they will be permitted for instances relating to payments for rent, maintenance contracts and in those instances, where, as normal business practice, prepayments are required (e.g. training, publications). Any other requests for prepayments (advance payments) must

have prior approval by the Chief Financial Officer and the Department of Health and Social Care before any commitment is made.

## 7.16 Use of Corporate Procurement Cards

**7.16.1** Officers can utilise Corporate Procurement cards where the use of Purchase Orders is not practicable or feasible in accordance with the Corporate Procurement Card Policy. Corporate Procurement cards must only be used by the named card user with all transactions subject to Commercial oversight and approval.

**7.16.2** This policy is overseen by the Chief Financial Officer who is responsible for:

- approving changes to the scope and scale of their use;
- defining the posts or departments that should be issued with a corporate procurement card;
- defining the goods and services that can be purchased on these cards;
- approving the credit limit associated with cards; and
- approving the Corporate Procurement Card policy for each statutory organisation.

**7.16.3** All purchases utilising a Corporate Procurement Card require advance budget holder approval. In exceptional circumstances where there is a requirement of payment greater than £1000 this requires prior approval from the Director of Financial Control.

**7.16.4** Commissioning Support Units that utilise Corporate Procurement Cards are subject to a £1,000 transaction limit and all Corporate Procurement Card policy requirements.

# 8 Staff costs and staff related non-pay expenditure

## 8.1 Staff remuneration and Terms of Service

**8.1.1** NHS England's Strategic Human Resources, Nominations and Remuneration Committee, NHS Improvement's Strategic Human Resources, Nominations and Remuneration Committee (together the Remuneration Committees) and the NHS Executive Group of NHS England and NHS Improvement have established the Executive Human Resources Group ("the Group").

**8.1.2** The Group will support the discharge of each statutory organisation's respective duties and powers and their combined responsibilities relating to employee policies, employee engagement, recruitment and retention, remuneration policy, termination payments, establishment control and change programmes

**8.1.3** NHS England and NHS Improvement will pay remuneration and allowances to the Chair and Non-Executive Members of the Boards in accordance with instructions issued by the Secretary of State for Health and Social Care.

## 8.2 Funded Establishment

**8.2.1** The workforce plan incorporated within the annual budget will form the funded establishment.

**8.2.2** The funded establishment of any Directorate may not be varied without the approval of the relevant Committee or Sub-Committee or in the case of those aspects of relevant Committee or Sub-Committee responsibilities that are further delegated to Establishment Assurance Panels, the relevant Establishment Assurance Panel, in accordance with published Establishment Control guidance.

## 8.3 Employee Appointments

**8.3.1** Members of the Board and other Officers may only engage, re-engage or re-grade Employees, either on a permanent or temporary nature, or agree to changes in any aspect of remuneration in accordance with the approved Scheme of Delegation, Standing Orders, as relevant, and NHS England's and NHS Improvement's People and Organisation Development policies, procedures and guidance and within the limits of their approved budget and funded establishment. The Chief Executives or the relevant Committee or sub-Committee on their behalf must approve any exceptions in advance and in writing.

**8.3.2** The Director of Human Resources and Organisation Development is responsible for ensuring procedures are in place to be followed for the appointment of staff on secondment, including staff sourced via NHS IMAS.

**8.3.3** The Executive HR Group will approve policies, procedures and guidance presented by the Director of Human Resources and Organisation Development for;

- the determination of remuneration and terms of service for National Directors;

- the appointment of Executive and Senior Managers (ESM) or senior medical and dental employees with a remuneration package of £100,000 or more gross per annum (pro-rata), specific approval must have been sought, in advance, via the NHS England EHRSC and the Department of Health & Social Care ALB Remuneration Committee and/or HM Treasury.

**8.3.4** Advice should be sought from the Director of Human Resources and Organisation Development well in advance of the need to undertake any of the above.

## 8.4 Open ended contract employees

**8.4.1** All employees of NHS England and NHS TDA are subject to the Agenda for Change, Medical and Dental and Executive and Senior Managers terms and conditions. All employees of Monitor are subject to the civil service pay scheme.

**8.4.2** No Employees, on an open-ended contract of employment, are appointed without adherence to the relevant organisation's Establishment Control Guidance and decisions made by the Executive Human Resources Sub-Committee and Strategic Human Resources and Remuneration Committee of the Board.

**8.4.3** The Joint Operational Payroll User Group will issue instructions on:

- verifying and documenting data, including time records where appropriate;

- the timetable for receiving and preparing payroll data and the payment of staff; and

- pay advances and their recovery maintaining a system to ensure recovery from leavers of any money due by them to the accountable department, or payment of pay arrears.

**8.4.4** Line managers have responsibility for:

- prompt submission of forms via the approved payroll system when it is known that a member of staff will join or leave the organisation, or transfer from one cost centre to another within the organisation;

- ensuring that information on leavers is provided in good time to allow recovery of any advances and prevent overpayments;

- submitting other notifications in accordance with agreed timetables;

- ensuring that where a member of staff fails to report for duty in circumstances that suggest they have left without notice, informing HR Operations team immediately, who will inform the Payroll Services team; and

- familiarising themselves with policy guidance on overtime payments by banding.

**8.4.5** The Joint Operational Payroll User Group will ensure that the arrangements for providing payroll services are supported by appropriate (contracted) terms and conditions, adequate internal controls and audit review procedures, and that suitable arrangements are made for collecting payroll deductions and paying these to appropriate bodies.

## 8.5 Secondees

**8.5.1** A business case for any secondment into or out of NHS England and/or NHS Improvement, including duration and financial arrangements, must be agreed by HR before any commitment is made. All arrangements must be agreed in writing with the external seconding or receiving organisation. No secondment may be agreed unless the necessary budget provision is available and has received the necessary approval. On return from a secondment, a member of staff will return to their substantive role unless other arrangements are agreed by HR.

## 8.6 Contracts of Employment

**8.6.1** The Director of Human Resources and Organisation Development is responsible for ensuring systems are in place for:

- ensuring that all Employees are issued with a contract of employment in a form approved by the Boards and which complies with employment legislation;

- dealing with variations to, or termination of, contracts of employment; and,

- ensuring all volunteers and lay members receive a contract for service that appropriately reflects their status and entitlements, or not, to pay and/or expenses.

**8.6.2** Regardless of the arrangements for providing the payroll service, the Joint Operational Payroll User Group will ensure that the chosen method is supported by appropriate (contracted) terms and conditions, adequate internal controls and audit and review procedures, and that suitable arrangements are made for the collection of payroll deductions and payment of these to appropriate bodies.

**8.6.3** The Director of Human Resources and Organisational Development is responsible for ensuring the contract with the relevant outsourced service provider covers:

- maintenance of subsidiary records for superannuation, income tax, social security and other authorised deductions from pay;

- security and confidentiality of payroll information;

- separation of duties of preparing records and inputs and verifying outputs and payments;
- suitable systems for the identification and recording of Off-Payroll workers;
- the final determination of pay and allowances;
- is responsible for suitable systems for the identification and recording of Off-Payroll workers;
- checks to be applied to completed payroll before and after payment;
- ensuring payment occurs on agreed dates; and,
- arrangements for ensuring compliance with the provisions of the General Data Protection Regulation.

**8.6.4** Appropriately nominated Officers have responsibility for:

- submitting associated records, and other notifications in accordance with agreed timetables; including when an employee leaves employment; and
- the recovery of property from leavers due by them to NHS England and/or NHS Improvement.

## 8.7 Salary advances, Overpayment and recovery

**8.7.1** NHS England and NHS Improvement employees are expected to be truthful and honest in relation to salary overpayment & repayment;

**8.7.2** Salary advances will only be considered if the advance element represents more than 50% of the net income.

**8.7.3** When salary overpayments occur, it is our policy to pursue repayment. The Joint Operational Payroll User Group (JOPUG) provides oversight, assurance and challenge for the management of faster payments (advances) and any overpayment recovery plans approved outside the normal parameters of the NHS England and NHS Improvement Salary Advances and Overpayment Recovery Policy and Procedure (noting delegated approval to Deputy Director of Group Accounting and Systems and Head of Payroll Performance).

## 8.8 Redundancy and Severance pay

**8.8.1** Department of Health & Social Care and/or Ministerial and/or HM Treasury and/or Cabinet Office approval is required for all of the following:

- redundancies (subject to a capitalised cost de-minimus);
- ten or more redundancies, irrespective of capitalised cost;

- payments in lieu of notice in excess of £50,000 gross (subject to a de-minimus);
- all special severance payments, i.e. non-contractual, novel or contentious payments;
- financial incentive/retention payments;
- all novel, contentious or repercussive cases;
- change programmes/major restructuring;
- voluntary redundancy schemes;
- where a decision to terminate employment has been overturned;
- has a proposed individual severance payment of £100,000 or more; and,
- Confidentiality clauses.

**8.8.2** Any of the above, incentive or settlement payments requires the approval of the relevant Committee or Sub Committee and/or the Department of Health & Social Care and/or HM Treasury in advance. Advice should be sought from the Director of People and Organisational Development, well in advance of the need to undertake any of the above.

## 8.9 Staff loans and salary sacrifice

**8.9.1** Loans and advances to individual members of staff over £20,000 in aggregate require Department of Health & Social Care approval, via the Director of People and Organisational Development.

**8.9.2** Season ticket loans, up to a maximum value of £5,000, are available to employees with at least 12 months of NHS service.

**8.9.3** All salary sacrifices schemes are subject to applicable policies which provide detailed guidance. Please refer to the intranet for the various scheme policies.

## 8.10 Business travel and staff expenses

**8.10.1** The circumstances under which NHS England, NHS Trust Development Authority and Monitor reimburse expenses incurred by staff carrying out business activity, as well as other categories of expense, are set out in the respective business travel and expenses policies and guidance for each statutory organisation. Budget holders should ensure they are familiar with such policies and guidance.

# Accounts & Annual Reporting, Counter Fraud and Losses and Special Payments

# 9 Accounts & Annual Reporting

## 9.1 Preparation of Financial Returns

**9.1.1** The Chief Financial Officer, on behalf of the Boards, will:

- ensure the preparation of financial returns in accordance with the accounting policies and guidance given by the Department of Health & Social Care and HM Treasury, the relevant organisation's accounting policies and generally accepted accounting practice;

- ensure the preparation and submission of annual financial reports to the Department of Health & Social Care certified in accordance with current guidelines and prescribed timetable.

**9.1.2** NHS England, NHS TDA and Monitor will produce annual reports and accounts, in accordance with DHSC Group Accounting Manual, which will be audited by the National Audit Office and laid before Parliament.

**9.1.3** The audited annual reports and accounts will be presented to an appropriate public meeting.

## 9.2 Internal Audit

**9.2.1** The Chief Financial Officer is responsible for ensuring that there are arrangements to measure, evaluate and report on the adequacy and effectiveness of internal control and efficient use of resources by the establishment of an adequate internal audit service.

**9.2.2** All internal audit services, including the provision of assurance to other organisations over services provided to them by NHS England and NHS Improvement, are provided under arrangements proposed by the Chief Financial Officer and approved by the Audit and Risk Assurance Committee, on behalf of the Board(s).

**9.2.3** The internal audit charter is a formal document that defines internal audit's purpose, authority, responsibility of the outsourced internal audit activity for the statutory bodies. The Internal Audit Charter is prepared in accordance with the Public Sector Internal Audit Standards (PSIAS).

**9.2.4** The Heads of Internal Audit (for the respective Statutory organisations) will provide an annual opinion on the overall adequacy and effectiveness of the NHS England and NHS Improvement Board's framework of governance, risk management and internal control as they operated during the year, based on a systematic review and evaluation.

**9.2.5** Each CSU Managing Director is responsible for providing the assertions and descriptions of controls required by the internal audit provider to be able to provide

Service Auditor Reports, and where necessary signing on behalf of NHS England to confirm their accuracy.

**9.2.6** The Heads of Internal Audit (for the respective Statutory organisations), will make suitable provision to undertake assessment on key systems operated by NHS England and NHS Improvement on behalf of other organisations, where possible under International Standards on Assurance Engagements, under arrangements proposed by the Chief Financial Officer and approved by the Audit and Risk Assurance Committee.

**9.2.7** The Heads of Internal Audit will make suitable provision to form an opinion on key systems being operated by other organisations, either by deriving the opinions themselves or by relying on the opinions provided by other auditors/review bodies.

**9.2.8** The Heads of Internal Audit will normally attend Audit and Risk Assurance Committee meetings and have a right of access to all Audit and Risk Assurance Committee members, the Chairs and Chief Executives of NHS England and NHS Improvement.

**9.2.9** Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash or property or any suspected irregularity in the exercise of any function of a pecuniary nature, the Director of Financial Control must be notified immediately.

## 9.3 External Audit

**9.3.1** External audit services are provided by the National Audit Office, on behalf of the Comptroller and Auditor General, for Monitor, NHS TDA and NHS England.

**9.3.2** The Audit and Risk Assurance Committee must ensure a cost-efficient service. If there are any problems relating to the service provided by the external auditor these should be raised with the external auditor and referred to the Audit and Risk Assurance Committee if they cannot be resolved.

## 9.4 Fraud, Bribery and Corruption (Economic Crime)

**9.4.1** NHS England and NHS Improvement are committed to the prevention, deterrence, detection and investigation of all forms of fraud, bribery and corruption.

**9.4.2** All fraud, bribery and corruption (collectively referred to as economic crime) in the NHS is unacceptable and should not be tolerated.

**9.4.3** Appropriate reference to Economic Crime should be included in the departmental and organisational risk registers.

**9.4.4** The Chief Financial Officer is responsible for overseeing and providing strategic management and support for all counter fraud, bribery and corruption work within NHS England and NHS Improvement, including within all its hosted bodies.

**9.4.5** All counter fraud, bribery and corruption services (including for hosted bodies) are provided under arrangements proposed by the Chief Financial Officer and approved by the Audit and Risk Assurance Committee, on behalf of the respective Boards.

**9.4.6** The Director of Financial Control will have day to day oversight of the counter fraud function. The Counter Fraud Lead will manage the counter fraud, bribery and corruption services for NHS England and NHS Improvement, including working with key partners to ensure the applicable counter fraud standards are appropriately implemented.

**9.4.7** The nominated employee for each Region, Corporate Directorate, Commissioning Support Unit, Devolved Authority, NHS IMAS and the NHS Sustainable Development Unit has overall responsibility for ensuring effective liaison with, and the provision of the necessary information to the Counter fraud team to facilitate the discharge of their duties and ensuring counter fraud, bribery and corruption work is supported, and any actions are implemented within their area of responsibility ('the responsible Director').

**9.4.8** The responsible Director will nominate a Director to be responsible for local day-to-day arrangements and a Local Counter Fraud Co-ordinator to work with the NHS England and NHS Improvement Counter Fraud team to ensure the delivery of local counter fraud, bribery and corruption arrangements on a day-to-day basis.

**9.4.9** All Members of the Boards and Officers, severally and collectively, are responsible for ensuring NHS England and NHS Improvement resources are appropriately protected from fraud, bribery and corruption.

**9.4.10** Managers should ensure that Officers in their teams are aware of fraud, bribery and corruption (economic crime) risks and understand the importance of protecting NHS England and NHS Improvement against them.

**9.4.11** Officers must report any suspicions of economic crime as soon as they become aware of them to an NHS England and NHS Improvement Counter Fraud Specialist or NHS Counter Fraud Authority via the routes set out in the Tackling Fraud Bribery and Corruption policy.

**9.4.12** Under no circumstances should any Officer commence an investigation into suspected or alleged crime, as this may compromise any further investigation.

# 10 Losses and Special Payments

**10.1.1** This section relates to all NHS England and NHS Improvement Losses and Special Payments.

**10.1.2** Losses and Special payments are items that HM Treasury would not have contemplated when it agreed funds for Government Departments and related arm's length bodies. Therefore, any expenditure which falls outside the HM Treasury coverage of Parliament approval is classified as irregular and requires specific approval.

**10.1.3** NHS England and NHS Improvement (including its hosted bodies) are subject to the delegated schedules detailing approval limits for all irregular payments which are referenced as Losses and Special Payments. They are therefore subject to special control procedures compared to the generality of payments, and special notation in the accounts to bring them to the attention of parliament.

**10.1.4** A loss, write off or special payment will always require HM Treasury approval, irrespective of value, if it,

- Involves important questions of principle;
- Raises doubts about the effectiveness of existing systems;
- Contains lessons which might be of wider interest;
- Is novel or contentious;
- Might create a precedent for other departments in similar circumstances; or,
- Arose because of obscure or ambiguous instructions issued centrally.

**10.1.5** All losses and Special Payments should be reported and submitted to the Head of Assurance & Counter Fraud by using the standard template as provided by the Assurance team.

## 10.2 Losses and Write- Offs

**10.2.1** All losses up to and including £75,000 can be approved by the Director of Financial Control, Deputy Director Management Accounts and Assurance and Head of Assurance and Counter Fraud; losses above this amount must be approved by the Department of Health and Social Care.

**10.2.2** Losses are defined in the Losses and Special guidance and advice can be sought from the Assurance team where cases arise. Losses that are subject to insurance cover should be accounted for on a net basis (i.e. after any insurance pay out).

**10.2.3** Any Officer discovering or suspecting a loss of any kind must either immediately inform their Head of Department, who must immediately inform the Chief Executive and the Chief Financial Officer, or the Local Counter Fraud Specialist charged with responsibility for responding to concerns involving loss where fraud may have occurred.

**10.2.4** The Officer will then appropriately inform the Chief Financial Officer and/or Chief Executive. Where an offence is suspected, the Chief Financial Officer must immediately inform the police, if theft or arson is involved. In cases of fraud, bribery and corruption, or of anomalies that may indicate fraud, bribery or corruption, the Chief Financial Officer must ensure the Local Counter Fraud team have been informed.

**10.2.5** For losses apparently caused by theft, arson, neglect of duty or gross carelessness, except if trivial, the Chief Financial Officer must immediately notify the respective Board(s) and the External Auditor.

**10.2.6** The Chief Financial Officer is authorised to take any necessary steps to safeguard NHS England's and NHS Improvement's interests in bankruptcies and company liquidations.

**10.2.7** For any loss, the Chief Financial Officer should consider whether any insurance claim could be made.

**10.2.8** All write offs in accordance with the NHS Shared Business Services ISFE contract do not require pre-approval if based on the debt management policy.

**10.2.9** All losses and write offs should be approved in accordance with the procedure set out by the Chief Financial Officer. Where a Loss relates to threated or instituted legal proceedings, claims or actions, additional provisions as set out in appendix 7 are applicable.

## 10.3 Special Payments

**10.3.1** All special payments up to and including £20,000 can be approved by officer(s) nominated by the Chief Financial Officer. The nominated officers are the Director of Financial Control, Deputy Director Management Accounts and Assurance and Head of Assurance. The Nominated Officer will authorise Special payments on behalf of NHS England and NHS Improvement.

**10.3.2** Special payments over £20,000 will require approval by the Chief Financial Officer. Such payments will also need to be submitted to DHSC for approval by HM Treasury.

**10.3.3** All special severance payments and retention payments require the approval of the relevant Committee or Sub Committee. These items will always require subsequent HM Treasury approval.

**10.3.4** Managing Public Money defines special payments as;

- Extra-contractual payments: payments which, though not legally due under contract, appear to place an obligation on a public-sector organisation which the courts disciplinary uphold. Typically, these arise from the organisation's action or inaction in relation to a contract. Payments may be extra-contractual even where there is some doubt about the organisation's liability to pay, e.g. where the contract provides for arbitration, but a settlement is reached without it. A payment made because of an arbitration award is contractual;

- Extra-statutory and extra-regulatory payments are within the broad intention of the statute or regulation, respectively, but go beyond a strict interpretation of its terms;

- Compensation payments: are made to provide redress for personal injuries, traffic accidents, and damage to property etc. They include other payments to those in the public service outside statutory schemes or outside contracts;

- Special severance payments are paid to employees, contractors and others outside of normal statutory or contractual requirements when leaving employment in public service whether they resign, are dismissed or reach an agreed termination of contract; and

- Ex gratia payments: go beyond statutory cover, legal liability, or administrative rules, including: payments made to meet hardship caused by official failure or delay; out of court settlements to avoid legal action on grounds of official inadequacy; and, payments to contractors outside a binding contract, e.g. on grounds of hardship.

## 10.4 Contingent liabilities

**10.4.1** For guidance on contingent liabilities, please refer to the Procedural guidance for Indemnity Cover liabilities as published on the intranet.

## 10.5 Losses and Special Payments Register

**10.5.1** The Chief Financial Officer is responsible for ensuring that a losses and special payments register is maintained for each statutory organisation in which write-off action is recorded (including that at CSU level).

**10.5.2** The losses and special payments register will take account of the Parliamentary disclosure requirement to report on losses and special payments over £300,000 in total.

**10.5.3** All losses and special payments over £10,000 will be reported to the joint Audit and Risk Assurance Committee.

# Capital Investment and Grants

# 11 Capital Investment & Security of Assets & Grants

## 11.1 Capital Investment

**11.1.1** The Chief Financial Officer is responsible for:

- ensuring that there is an effective appraisal and approval process in place for determining capital expenditure priorities and the effect of each proposal upon business plans;
- ensuring that there are processes in place for the management of all stages of capital schemes, that will ensure that schemes are delivered on time and to cost; and
- ensuring that capital investment is not authorised without evidence of availability of resources to finance all revenue consequences.

**11.1.2** For every capital expenditure proposal, the Chief Financial Officer is responsible for ensuring there are processes in place to ensure that a business case is produced.

**11.1.3** Capital commitments typically cover land, buildings, equipment, capital grants to third parties and IT, including:

- Authority to spend capital or make a capital grant;
- Authority to enter into a leasing arrangement;
- provide to enter into a legally enforceable commissioning commitment to:
- Provision of any transition or transaction support from centrally controlled NHS England/and or NHS Improvement funds;
- Support for the revenue implications of a third party (e.g. NHS Property Services Limited, Community Health Partnerships Limited a Public/Private Partnership (PPP) vehicle or a provider trust) investing capital, or entering into a lease commitment; and/or
- Any other confirmation of commissioning commitment or support if the context for the expression of that commitment or support involves any departure or derogation from standard national policies applying at the relevant time.

**11.1.4** Advice should be sought from the Deputy Director- Insight and Analysis for Finance if there is any doubt as to whether any proposal is a capital commitment requiring formal approval.

**11.1.5** No procurement should be undertaken, or commitment given to purchase from a supplier prior to approval being received

**11.1.6** When allocated resources are used to create NHS England and NHS Improvement assets, Budget Holders and budget managing staff are responsible for the management of all aspects of this capital expenditure, including the availability of the necessary resources and cash financing of the asset through its acquisition and life.

**11.1.7** Capital expenditure must be funded from resources allocated for that purpose. No virement is permitted from capital budgets to revenue spending (please refer to SFI12.1 Switches and Virements). There may be flexibility to use capital budgets for revenue purposes, but this must be discussed and agreed by the Director of Financial Control.

**11.1.8** For a capital investment where the contract stipulates stage payments, the Chief Financial Officer is responsible for ensuring there are processes in place to issue procedures for their management.

**11.1.9** The Chief Financial Officer is responsible for ensuring there are processes in place for the issue of procedures for the regular reporting of expenditure and commitment against authorised expenditure.

**11.1.10** The approval of a capital programme does not constitute approval for expenditure on any scheme included within that programme.

**11.1.11** The Chief Financial Officer is responsible for ensuring there are processes in place to issue to the Officer responsible for any scheme:

- specific authority to commit expenditure
- authority to proceed to tender; and,
- approval to accept a successful tender.

**11.1.12** The Chief Financial Officer is responsible for ensuring there are processes in place to issue procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes. These procedures should fully consider the delegated limits for capital schemes issued by the Department of Health and Social Care as detailed below;

## 11.2 The following Capital Expenditure approval limits apply:

| Financial Investment value | Applicable Governance and approving body | Applicable to; |
|---|---|---|
| **Over £50m** | • Any investment over £50m currently requires further approval by the Department of Health and Social Care and HMT<br>• Investment and Resources Group | NHS England and NHS Improvement |
| **From £35m to £50m** | • Any investment between £35m and £50m currently requires discussion/consultation with the Department of Health and Social Care.<br>• Investment and Resources Group | NHS England and NHS Improvement |
| **From £20m to £35 million** | • Commitments from £20m-£35m: should be approved by ;<br>• Investment and Resources Group | NHS England and NHS Improvement |
| **Up to £20m** | • Commitments up to £20m should be approved by the Chief Executive or Chief Financial Officer or National Director of Operational Finance & Performance or national Director of Strategic Finance | NHS England and NHS Improvement |
| **Up to £5m** | • For Devolution Programmes, commitments up to £5m, or such other sum (not in any event exceeding £5m) as the Chief Financial Officer may, at his discretion, from time to time determine: Devolution Programme Chief Officer and Finance & Investment Lead (acting jointly), or such equivalent titles as may be agreed for these positions. | Devolved Programmes only |
| **Up to £1m** | • For CSU programmes within approved budget, commitments up to £1m should be approved by the CSU Managing Director and CSU Director of Finance | CSU Only |
| **Up to £1m** | • Commitments up to £1m in a region should be approved by the Regional Director of Finance. | Regions capital commitment |

**11.2.1** Delegated Capital expenditure approval limits for investment in property, infrastructure or information and communications technology;

**11.2.2** Delegated capital expenditure limits as per the NHSX operating framework;

| Financial Investment value | Capital expenditure limit | Capital business case requirement |
|---|---|---|
| **Up to £5m** | Commitments up to £5m must be approved by the NHSX Chief Executive | ✓ |
| **Up to £1.5m** | Commitments up to £1.5m must be approved by the NHSX ESM2/SCS2 and as designated by the NHSX Chief Executive | ✓ |

**11.2.3** In addition, commitments to capital expenditure on items covered by Cabinet Office Controls are subject to the efficiency centralised category procurement requirements detailed in the procurement policy for the respective organisation.

**11.2.4** Approve the principle of setting a fixed financial plan which contributes to the National Information Board budget envelope of which a value to be quantified will non-recurrently transfer from NHSE's Accountability Framework to NHS Digital (NHSD).

**11.2.5** Agree to the principle of providing the Technology Finance and Performance Board with an indicative funding envelope for 2019/20 and 2020/21 which will contribute to the National Information Board budget envelope. An element of this plan yet to be quantified will transfer non-recurrently through the accountability Framework to NHSD but is subject to formal approval linked to future planning rounds.

**11.2.6** Chief Financial Officer, or nominated deputy, to make investment decisions on behalf of NHSE as a voting member of the Technology and Data Investment Board (TDIB).

## 11.3 Fixed and Leased asset registers

**11.3.1** The Group Accounting & Systems team within the Financial Control Directorate is responsible for arranging maintenance of registers of fixed assets including leased assets under IFRS 16.

**11.3.2** The Group Accounting & Systems team is responsible for ensuring that additions to the fixed/leased asset registers are clearly identified to an appropriate Budget Holder and are validated by reference to:

- properly authorised and approved agreements, architect's certificates, supplier's invoices and other documentary evidence in respect of purchases from third parties;

- lease agreements for assets held under a finance lease and capitalised.

**11.3.3** The Director of Financial Control shall approve procedures for routine reconciliation of balances on fixed/leased assets accounts in ledgers against balances on fixed/leased asset registers, and for reporting of the results.

**11.3.4** The Director of Financial Control shall ensure that appropriate accounting policies are adopted to ensure appropriate ongoing valuation of all assets.

**11.3.5** Where capital assets are sold, scrapped, lost or otherwise disposed of, their value must be removed from the accounting records and each disposal must be validated by reference to authorisation documents and invoices (where appropriate).

**11.3.6** The value of each asset will be depreciated using methods and rates as specified in NHS England's and /or NHS Improvement's accounting policies Estimated useful

lives and depreciation rates of assets will be reviewed as per the NHS England and NHS Improvement capital guidance.

**11.3.7** Budget Holders are responsible for ensuring that arrangements are in place to physically check the existence of assets and inventories for their areas on an annual basis.

**11.3.8** The Director of Financial Control is responsible for ensuring there are processes in place to maintain an up to date register of properties owned or leased by NHS England and /or NHS Improvement. This should include details of location, tenancy (where appropriate), and custody of the deeds and lease documents.

**11.3.9** The Commissioning Support Unit (CSU) Managing Director is responsible for ensuring that the CSU maintains an up to date asset register and asset inventory register.

## 11.4 Non- current assets

**11.4.1** The Director of Financial Control will maintain a register of non-current assets and record the values and depreciation of these assets in accordance with the applicable accounting standards.

## 11.5 Disposal of assets

**11.5.1** The Director of Financial Control must prepare procedures for the disposal of assets and ensure that these are notified to Budget Holders. This includes NHS England's and NHS Improvement's assets held by other bodies such as CCGs.

**11.5.2** All discrepancies revealed by verification of physical assets to any fixed/leased asset register shall be notified to the Director of Financial Control as soon as practicable.

**11.5.3** Assets identified as surplus should be disposed of promptly i.e. within the timetables set out in the Government Accounting Manual and other HM Treasury guidance. Surplus equipment and furniture assets should normally be sold.

## 11.6 Security of assets

**11.6.1** The overall control of NHS England and NHS Improvement assets is the responsibility of their respective Accounting Officer. All Officers, collectively and severally, are responsible for the security of property of their organisation.

**11.6.2** Budget Holders must ensure that local guidance includes asset control procedures (including those covering fixed/leased assets).

**11.6.3** Budget Holders must ensure that all leavers return IT equipment. ICT must define escalation procedures for any IT equipment that is not returned and stored in the central repository within a set timeframe after leaving date.

**11.6.4** Where practical, assets must be marked as NHS property. Particular care should be taken to safeguard valuable portable items such as laptops, desktops and mobile phones.

**11.6.5** Asset control procedures (including fixed/leased assets, inventories, and donated assets) must be approved by the Chief Financial Officer. These procedures must make provision for:

- Recording managerial responsibility for each asset;
- Identification of additions and disposals;
- Identification of all repairs and maintenance expenses;
- Physical security of assets;
- Periodic verification of the existence of, condition of, and title to, assets recorded;
- Identification and reporting of all costs associated with the retention of an asset; and,
- Reporting, recording and safekeeping of cash, payable orders, and negotiable instruments.

**11.6.6** A substantial or persistent breach of agreed security practices must be reported to the Security Management Co-ordinator, who will then refer the matter to the Chief Financial Officer, who will determine the necessary action, including investigation.

**11.6.7** Any damage to NHS England's or NHS Improvement's premises, vehicles and equipment or any loss of equipment or supplies must be reported by Officers in accordance with the agreed procedure for reporting losses.

**11.6.8** Budget Holders must ensure that any capital grant issued is used for its intended purpose and ensure appropriate legal agreements are in place to secure NHS England and NHS Improvement investment if there is a change in use of the asset the grant has been provided for.

**11.6.9** Capital Grants issued in respect of Primary Care should be issued in accordance with the Primary Care Cost Directions. Primary Care Commissioning Teams must ensure any capital grant issued is appropriately documented and assessed to enable appropriate management of GP contracts.

## 11.7 NHS England Financial Assistance & Revenue Grants

**11.7.1** The Chief Financial Officer is responsible for providing robust management, governance and assurance to NHS England with regards to the use of specific powers under which it can make financial assistance and grants available to any person providing or proposing to provide primary medical services under a primary medical services contract.

**11.7.2** The Chief Financial Officer assigns the operational responsibilities to the Commercial Strategy Panel and Commercial Executive Group the responsibility to provide governance and assurance to NHS England (and any Devolved authority) with regards to the use of specific powers under which it can make financial assistance and revenue grants awards.

**11.7.3** The relevant powers for NHS England are:

- Paragraph 13, Schedule 1 of the NHS Act 2006
- Section 13X of the NHS Act 2006;
- Section 83 of the NHS Act 2006
- Section 93 of the NHS Act 2006
- Section 96 of the NHS Act 2006;
- Section 256 and 257 of the NHS Act 2006;
- Section 112 of the NHS Act 2006;
- Section 124 of the NHS Act 2006; and
- Section 147 of the NHS Act 2006.

**11.7.4** All revenue grant applications should be regarded as competed as a default position, unless, there are justifiable reasons why the classification should be amended to non-competed.

**11.7.5** All Financial Assistance applications will be assessed based on the applicable statutory act.

**11.7.6** Revenue grants should be awarded and governed in accordance with NHS England's powers under the NHS Act 2006, and the NHS England Grants policy and guidance.

**11.7.7** Financial Assistance applications must be submitted to the Primary Care Team (and escalated to the local Primary Care Delivery & Oversight Group) for review and submission to the Legal team.

**11.7.8** Funding provided under sections 96, 112,124 and 147 of the NHS Act shall be known as "Primary Care Financial Assistance". Primary Care Financial Assistance should be awarded and governed in accordance with the relevant Primary Medical Care Policy and guidance.

**11.7.9** All financial transactions are subject to the procurement policy and Governance manual to support financial probity, regularity and value for money.

- grant and Primary Care Financial Assistance applications should have an NHS England Senior Responsible Owner whose core responsibilities and accountabilities include:

- oversight of the governance and sign-off process to ensure due regard is given to priority areas;

- Sign-off of the grant/financial assistance agreement/ terms and conditions to the relevant approval panel (local Primary Care Delivery & Oversight Group, Commercial Strategy Panel and/or Commercial Executive Group);

- Ensuring details of the grant/financial assistance are recorded on the appropriate system in accordance with the relevant policy;

- Oversight and sign-off of scheduled meetings and annual reviews in relation to grants which cover multiple years; and

- Reducing the cost of administering grants and financial assistance.

## 11.8 Primary Care Financial Assistance applications:

**11.8.1** Business cases for Primary Care Financial Assistance must be completed showing that they;

- supports NHS England functions and objectives;
- demonstrates value for money; and
- is proportionate to the identified need.

**11.8.2** Business cases for financial support must not exceed £200,000 and/or be for a period of longer than 3 months.

**11.8.3** Any exceptions must be approved by management accounts by confirming the availability of revenue resources.

**11.8.4** Provision of Primary Care Financial Assistance must be reported and logged locally.

**11.8.5** The approval route for Primary Care Financial Assistance applications, is dependent upon whole life value (including any non-recoverable VAT) as follows:

| **0 - £50k** | **£50k to £200k** | **£200k to £1m** | **Above £1m** |
|---|---|---|---|
| Deputy appointed by Director of Primary Care and System Transformation | Director of Primary Care and public health | Chief Financial Officer | Department of Health and Social Care/HMT |

**11.8.6** Further detailed operational guidance can be found in the Primary Medical Care Policy and Guidance Manual (PGM)

# Legal & Insurance

# 12 Legal

## 12.1 Payments or Recovery in Legal actions

**12.1.1** This section applies to any legal cases threatened or instituted by or against NHS England or NHS Improvement. This can include clinical and non-clinical matters, whether dealt with by a Court or other judicial body, such as the Primary Care Appeals Service. These cases need not necessarily involve any financial claim. The matter could be a challenge to reverse a decision.

**12.1.2** However, where threatened or instituted legal action arises, payments made to or recovered from other parties in the matter (third parties) may be treated as a Loss, a Special Payment, a combination of both, or neither. The advice of the relevant Legal team must be sought in these situations, if they are not already involved in the matter.

**12.1.3** As a rule, a payment made to comply with a court judgement or costs order will not be a special payment, as this should be treated as a liability to pay and follow procedures for normal authorisations.

**12.1.4** Where any document needs signing or acknowledging in relation to such threatened or instituted legal action, including where its execution will incur a liability to pay or recover a sum of money, provided the relevant Employee ( following any procedure for Losses and Special Payments) authorises the matter, legal representatives may execute such documentation where appropriate (e.g. not in the case of an individuals' Statement of Truth.

**12.1.5** Officers must not commit or spend NHS England or NHS Improvement revenue resources without adequate authority. The approval of the instigation or defence of legal proceedings by NHS Improvement must be approved by the NHS Improvement Board.

**12.1.6** Payments made to settle a case or actions which involve waiving a claim already made should be treated as Losses or Special Payments (depending on the facts) and the processes in SFI11should be followed.

## 12.2 In House legal costs

**12.2.1** If in-house legal costs are recoverable by way of settlement or Court Order then in the case of NHS England the Director of Governance and Legal (if a solicitor) or Head of Legal is to determine the appropriate hourly rate of recovery with regard to the level of experience, the solicitor guideline hourly rate in force and the relevant legal case law.

## 12.3 **Professional Services: Legal**

**12.3.1** Legal services are subject to both centralised category procurement and efficiency controls.

**12.3.2** All spend for external legal advice must be approved in the case of NHS England by the Director of Governance and Legal (if a solicitor) or Head of Legal or an Officer appointed by them and in the case of NHS Improvement by the General Counsel or other Officer appointed by them.

**12.3.3** CSUs and other hosted bodies can requisition and pay for their own legal spend (as part of their local accounting practice and these SFIs) but are required to call off from the notified framework arrangements.

**12.3.4** Details of the framework arrangements and spend controls are as set out in the Legal Services Future Controls communication as updated and available on SharePoint.

Advice should be sought from the relevant legal team in relation to any proceedings, claims correspondence, legal support requirements, and available framework arrangements and related spend controls or when planning any programmes of work at: england.legal@nhs.net or nhsi.legaladmin@nhs.net.

# 13 Insurance

**13.1.1** Central Government has a presumption against the use of commercial insurance. NHS England and NHS Improvement are required, before any contract for commercial insurance is taken up, to complete a cost-benefit analysis which shows this is justified on a cost basis. The exception to this being for overseas travel.

**13.1.2** The relevant Board will decide if NHS England and NHS Trust Development Authority will insure through the risk pooling schemes administered by NHS Resolution or self-insure for some or all of the risks covered by the risk pooling schemes. If the Board decides not to use the risk pooling schemes for any of the risk areas (clinical, property and employers/third party liability) covered by the scheme this decision should be reviewed annually.

**13.1.3** No commitment of NHS England and NHS Improvement funds to insure costs shall be entered without the written authority of the Chief Financial Officer, who must ensure that all necessary authorisations are obtained, and conditions met.

## 13.2 Insurance: Arrangements with Commercial Insurers

**13.2.1** HM Treasury approval is required for any insurance arrangements with commercial insurers. There are, however, three exceptions when NHS England and NHS Improvement may enter into insurance arrangements with commercial insurers without seeking HM Treasury approval. The exceptions are:

**13.2.2** commercial arrangements for insuring motor vehicles owned or leased by NHS England or NHS Improvement including insuring third-party liability arising from their use;

**13.2.3** where NHS England or NHS Improvement is involved with a consortium in a Private Finance Initiative contract and the other consortium members require that commercial insurance arrangements are entered into; and

**13.2.4** where income generation activities take place, these should normally be insured against all risks using commercial insurance. If the income generation activity is also an activity normally carried out by NHS England and/or NHS Improvement for NHS purposes the activity may be covered in the risk pool. Confirmation of coverage in the risk pool must be obtained from NHS Resolution

## 13.3 Arrangements to be followed by the Board in Agreeing Insurance Cover

**13.3.1** Where the Boards decide to use the risk pooling schemes administered by NHS Resolution, the Chief Financial Officer is responsible for ensuring systems are in place to ensure that the arrangements entered are appropriate and complementary to the risk management programme. The Chief Financial Officer is responsible for

ensuring systems are in place to ensure that documented procedures cover these arrangements.

**13.3.2** Where the Boards decide not to use the risk pooling schemes administered by NHS Resolution for one or other of the risks covered by the schemes, the Chief Financial Officer will ensure that the Boards are informed of the nature and extent of the risks that are self-insured because of this decision. The Chief Financial Officer is responsible for ensuring systems are in place to draw up formal documented procedures for the management of any claims arising from third parties and payments in respect of losses which will not be reimbursed.

# 14 Appendix 1 - Statutory Framework

## 14.1 NHS England – Statutory Framework

**14.1.1** The National Health Service Commissioning Board (operating as NHS England) is a statutory body established under section 1H of the National Health Service Act 2006. NHS England is governed by the National Health Service Act 2006, the Health & Social Care Act 2012 and by secondary legislation made under these Acts.

**14.1.2** In addition, as a non-departmental public body, NHS England is party to an Accountability Agreement with the Department of Health & Social Care. The objectives and requirements of NHS England for each financial year are set in the annual mandate published by the Secretary of State in accordance with section 13A (1) of the NHS Act 2006, contained in the Accountability Framework.

**14.1.3** The functions of NHS England are conferred by the NHS Act 2006, the Health & Social Care Act 2012 and by secondary legislation made under these Acts and are primarily set out in section 1H, Chapter 1A and Schedule A1 of the NHS Act 2006. When exercising its functions, NHS England shall act in accordance with the duties imposed on it under the National Health Service Act 2006, the Health & Social Care Act 2012 and other relevant legislation.

## 14.2 NHS Trust Development Authority - Statutory Framework

**14.2.1** The National Health Service Trust Development Authority (NHS TDA) is a statutory body established by the National Health Service Trust Development Authority (Establishment and Constitution) Order 2012 (SI 2012 no. 901). The order has been amended by the National Health Service Trust Development Authority (Directions and Miscellaneous Amendments, etc) Regulations 2016 (SI 2016 no. 214). Made under section 25 of the National Health Service Act 2006.

## 14.3 Monitor - Statutory Framework

Monitor is a statutory body that came into being as the independent regulator of NHS foundation trusts under the provisions of the Health and Social Care (Community Health and Standards) Act 2003. Following consolidating legislation (the National Health Service Act 2006), the Health and Social Care Act 2012 established Monitor as the sector regulator for health

# 15 Appendix 2 – Definitions

| | |
|---|---|
| **Accounting Officer** | means the person (usually appointed as the Chief Executive) responsible and accountable for resources within the control of NHS England and/or NHS Improvement (as the case may be), in accordance with the requirements of the HM Treasury Guidance Managing Public Money.<br><br>NHS England, the applicable legislation is paragraph 15 of Schedule A1 of the NHS Act 2006 the Accounting Officer for NHS England is the Chief Executive.<br><br>For NHS TDA, see direction 10 of the National Health Service Trust Development Authority Directions and Revocations and the Revocation of the Imperial College Healthcare National Health Service Trust Directions 2016 (role of Chief Accountable Officer). |
| **Accountability Framework** | means the document referred to as the accountability framework, which brings together the statutory annual mandate issued by the Secretary of State for Health and Social Care to NHS England and the remit for NHS Improvement. It sets direction for NHS England and NHS Improvement to underpin initial implementation of the Long-Term Plan. |
| **Board** | means the Chair, Executive Members and Non-Executive Members of NHS England or NHS Improvement collectively as a body, as the context requires. Boards shall mean both. |
| **Budget** | means a resource, expressed in financial terms, proposed by the relevant Board or Boards for carrying out, for a specific period, any or all the functions of NHS England and /or NHS Improvement, as the case may be. |
| **Budget Holder** | means an Officer with delegated authority to manage finance (income and/or expenditure) for a specific area of NHS England and/or NHS Improvement. |
| **Budget Manager** | means an Officer who has the day to day responsibility for running and monitoring a budget on behalf of a Budget Holder. |
| **Chair** | means in the case of NHS England, the person appointed by the Secretary of State for Health and Social Care under paragraph 2(1) of Schedule A1 of the NHS Act 2006, to lead the Board and to ensure that it successfully discharges its overall responsibility for NHS England as a whole;<br>in the case of NHS Improvement, the person appointed by the Secretary of State for Health and Social Care as the chair of NHS Improvement (and the chair of both Monitor and NHS TDA) under paragraph 1(1)(a) of Schedule 8 to the HSCA 2012 and regulation 2(1) of the National Health Service Trust Development Authority Regulations 2012.<br><br>In relation to meetings of the Board, the expression “Chair” shall be deemed to include the Deputy-Chair if the Chair is absent from the meeting or is otherwise unavailable, or such other person appointed in accordance with SO5.10 (NHS England) or RoP5.6.3 (NHS Improvement). |
| **Chair (vice)** | means the Non-Executive Member appointed by the relevant Board to take on the Chair’s duties if the Chair is absent for any reason. In the case of NHS Improvement, it refers to the deputy chair. |

| | |
|---|---|
| **Chief Executive** | means the Chief Executive of NHS England and NHS Improvement. |
| **Chief Financial Officer** | means the Chief Financial Officer of NHS England and NHS Improvement, as the context requires. |
| **Clinical Commissioning Group** | means a body established in accordance with section 1 of the NHS Act 2006. |
| **Committee** | means a Committee appointed by the relevant Board, which reports to the relevant Board. |
| **Committees in Common** | means where two or more organisations establish their own committees, which meet at the same time and place with a shared remit and agenda. With the aim of promoting alignment between the organisations yet reserving to themselves their own decisions. |
| **CSU** | means Commissioning Support Unit. |
| **NHS England Employee** | means a person paid via the payroll of NHS England, or for whom NHS England has responsibility for making payroll arrangements, and secondees out of NHS England but excluding Non-executive Members. |
| **NHS Improvement Employee** | means a permanent member of staff of either Monitor or NHS TDA, a member of staff who is on secondment to Monitor or NHS TDA, or a contracted external consultant or adviser. |
| **National Director** | means a director of NHS England and NHS Improvement who is a member of the NHS Executive, including both Corporate and Regional Directors. |
| **Member** | means a Non-Executive Member or Executive Member of the Board as the context permits. Member in relation to the Board does not include its Chair. |
| **Executive Member** | means in the case of NHS England a voting Executive Member of the Board who is appointed in accordance with paragraph 3 of Schedule A1 of the NHS Act 2006, currently;<br>• Chief Executive<br>• Chief Financial Officer<br>• Chief Nursing Officer; and<br>• National Medical Director.<br><br>In the case of NHS Improvement, a member of the board of NHS Improvement who has responsibility for overseeing the organisation's management and has been appointed as both an executive member of Monitor (under paragraph 2 of Schedule 8 to the HSCA 2012) and an officer member of NHS TDA (under regulation 2(4) or (6) of the National Health Service Trust Development Authority Regulations 2012. |
| **HSCA 2012** | means Health and Social Care Act 2012. |
| **NHS Act 2006** | means National Health Service Act 2006 (as amended). |
| **NHS England** | means the National Health Service Commissioning Board. |
| **NHS Improvement** | means the NHS Trust Development Authority and Monitor. |

| | |
|---|---|
| **Corporate Director** | means a director designated as a National Director, other than a Regional Director; in particular:<br>• Chief Operating Officer<br>• Chief Financial Officer<br>• Chief Nursing Officer<br>• Chief People Officer<br>• Chief Commercial Officer<br>• Chief Delivery Officer<br>• National Medical Director<br>• National Director for Digital (NHSX)<br>• National Director: Strategy and Innovation<br>• National Director of Transformation<br>• National Director for Improvement<br>• National Director for Emergency and Elective Care |
| **Nominated Employee** | means Corporate Director, Regional Director, Managing Director of Commissioning Support Unit, Director of Sustainable Development Unit, and/or Managing Partner NHS Interim Management and Support (IMAS), as appropriate (unless otherwise stated in a schedule appended to the Scheme of Delegation nominated to carry out a specific task/function within Standing Orders and/or Standing Financial Instructions and/or the Scheme of Delegation. |
| **Non-Executive Member** | means in the case of NHS England a member of the Board who is appointed under paragraph 2(1)(a) or (b) of Schedule A1 to the NHS Act 2006;<br><br>In the case of NHS Improvement means a member of the board of NHS Improvement who does not have any management responsibilities and has been appointed as both a non-executive member of Monitor (under paragraph 1(1)(a) or (b) of Schedule 8 to the HSCA 2012) and a non-officer member of NHS TDA (under regulation 2(1) of the National Health Service Trust Development Authority Regulations 2012). |
| **Officer** | means an Employee or any other person holding a paid appointment or office with NHS England and its hosted bodies and/or NHS Improvement. |
| **Procurement rules** | means the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013, the Public Contracts Regulations 2015 (PCR2015), Concessions Contracts Regulations 2016, the Public Services (Social Value) Act 2012, the Equality Act 2010 and other relevant legislations. |
| **Rules of Procedure** | means the document setting out the Reservation of Powers to the Board and Delegation of Powers for NHS Improvement. |
| **Schemes of Delegation** | means the document(s) setting out the arrangements for the delegation of functions within NHS England or, as the case may be, NHS Improvement, including the reservation of powers to the Board. |
| **Secretary** | means a person appointed to provide advice on corporate governance issues to the relevant Board and its Chair, and to monitor that Board's compliance with the law, Standing Orders, Scheme of Delegation, Standing Financial Instructions and guidance issued by the Secretary of State for Health and Social Care. |
| **Secretary of State for Health and Social Care** | means the UK Cabinet Minister responsible for the Department of Health and Social Care. |

**SFI/ROP** means Standing Financial Instruction/Rules of Procedure.

**SO** means Standing Order.

# 16 Appendix 3 – Income Contract and Contract Variation Approval and Signing

These contractual limits are applicable to income generation initiatives in accordance with the requirements of the NHSEI business plan and a balanced Budget. These limits are also applicable to fees and income. Please refer to SFI 5.4 for further guidance.

| | | Level | Level | Level | Level | Level | Level |
|---|---|---|---|---|---|---|---|
| | Contract Value | **To £100k** | **To £500k** | **To £1m** | **To £5m** | **To £10m** | **Over £10m** |
| **Approvers and /Or Restrictions** | All cost centres | Other Band 8 and Band 7<br>Budget Holders | Band 9 and 8d Budget Holders | Other Directors | National Director<br><br>Or Regional Director of Commissioning / Regional Director of Finance<br><br>Or<br><br>NHSX Chief Executive<br>Or<br><br>GM Chief Officer | Director of Financial Control,<br><br>Deputy Chief Financial Officer - Strategic Finance,<br><br>Director of Financial Planning and Delivery,<br><br>Deputy Chief Financial Officer – Operational Finance | Chief Executive<br>or<br>Chief Financial Officer<br>or<br>Chief Operating Officer<br>Or<br>Chief Delivery Officer |

# 17 Appendix 4- Sales Order and Credit note delegated limits

The limits detailed below represent the transactional delegated limits and not contractual values for sales invoices and credit notes.

| | | Level | Level | Level | Level | Level | Level |
|---|---|---|---|---|---|---|---|
| | Contract Value | To £100k | To £500k | To £1m | To £5m | To £10m | Over £10m |
| **Approvers and /Or Restrictions** | All cost centres | Other Band 8 & 7 Budget Holders<br><br>Applicable to Monitor equivalent bandings | Band 9 & 8d Budget Holders<br><br>Applicable to Monitor equivalent bandings | Other Directors (ESM) | National Director<br><br>or<br><br>Regional Director of Commissioning / Regional Director of Finance<br><br>Or<br><br>GM Chief Officer<br><br>or<br><br>NHS X Chief Executive | Director of Financial Control,<br><br>Deputy Chief Financial Officer - Strategic Finance,<br><br>Director of Financial Planning and Delivery,<br><br>Director of Planning and Performance,<br><br>Director of Strategic Financial Planning,<br><br>Deputy Chief Financial Officer - Operational Finance,<br><br>Director of Planning and Performance | Chief Executive<br>or<br>Chief Financial Officer<br>or<br>Chief Operating Officer<br>Or<br>Chief Delivery Officer |

## 18 Appendix 5 - Contract Signing: non-clinical expenditure contracts

The table below represents the contractual signing limits applicable to non-clinical business cases. Please refer to SFI 7.for further guidance.

| **Whole life contract value (including extension periods but excluding VAT)** | **Non clinical expenditure** | |
|---|---|---|
| | Up to £5m | Over £5m |
| **Approvers and / or Restrictions** | Director of Financial Control<br>*or*<br>Chief Commercial Officer<br>or<br>NHSX Chief Executive<br>or<br>Deputy Director of Management Accounts & Assurance<br>or<br>Deputy Director of Group Accounting & Systems | Chief Executive<br>or<br>Chief Financial Officer<br>or<br>Chief Operating Officer<br>or<br>Chief Delivery Officer<br>or<br>Deputy Chief Financial Officer - Operational Finance<br>or<br>Deputy Chief Financial Officer - Strategic Finance |
| | (subject to prior recommendation by the Director of Procurement Transformation and Commercial Delivery or Commercial Strategy Panel) | (subject to prior recommendation by the Commercial Executive Group) |

# 19 Appendix 6 - Contract Signature limits for Clinical Services

The table below represents the contractual signing limits applicable to clinical business cases. Please refer to SFI 7 for further guidance.

| | Clinical services | | |
|---|---|---|---|
| **Whole life contract value (including extension periods but excluding VAT)** | Up to £25m | Up to £500m | Over £500m |
| **Approvers** | Regional Director of Public Health and Primary Care (Primary Care and Public Health only)<br><br>or<br>Regional Director of Commissioning Finance<br><br>Or<br>Regional Director of Specialised Commissioning and Health and Justice | National Director<br>or<br>Regional Director of Finance;<br>or<br>NHSX Chief Executive<br>or<br>Regional Director of Commissioning<br>or<br><br>GM chief Officer | Chief Executive<br>or<br>Chief Financial Officer<br>or<br>Chief Delivery Officer<br>or<br>Chief Operating Officer<br>or<br>Deputy Chief Financial Officer - Strategic Finance<br>or<br>Deputy Chief Financial Officer - Operational Finance |

## 20 Appendix 7- Approvers for expenditure Contract variations and Extensions

The table below represents the contract variation limits applicable to clinical and non-clinical contracts. Please refer to SFI 7.12 for further guidance.

| | Authorisation Authority |
|---|---|
| **Non-Clinical Expenditure** | |
| Up to 10% of the original contract value subject to a maximum value cumulative variation of £150k | Senior Commercial Supplier Relationship Manager<br><br>Senior Commercial Manager |
| between 10 - 30% of the original contract value subject to a maximum value cumulative variation of £750k | Commercial Strategy Panel |
| Between 30 - 50% cumulative variation of the original contract value | Commercial Executive group |
| **Clinical Expenditure** | |
| Up to 50% cumulative variation of the original contract value | Regional Director of Commissioning (up to £250m);<br><br>or National Director<br><br>Regional Director of Specialised Commissioning and Health and Justice or<br>Regional Director of Commissioning Finance<br>Up to £50m<br><br>Regional Director of Public Health and Primary Care<br>Up to £12.5m |

# 21 Appendix 8: Approval Limits for all purchase requisitions, credit notes, invoices, non-Purchase Order invoices and payments

| Requisition/ Invoice Value | Up to £50k | Up to £100k | Up to £5m | Up to £500k | Up to £5m (all expenditure except Clinical Services)<br><br>Up to £500m (Clinical Services) | Above £5m (all expenditure except Clinical Services)<br><br>Above £500m (Clinical Services) |
|---|---|---|---|---|---|---|
| **Approvers and/or restrictions** | AFC Band 8A-C, up to £50k<br><br>AFC Band 7, up to £30k<br><br>and band 6, up to £10k<br><br>up to AFC Band 5, and below up to £5k<br><br>Applicable to Monitor equivalent bandings | AfC Band 9 & 8D Budget Holders<br><br>Applicable to Monitor equivalent bandings | Regional Director of Primary Care and Public Health<br><br>Or<br><br>Regional Director of Specialised Services, Health | Other Directors (ESM)<br><br>Regional Director of Finance | National Director<br>*or*<br>Regional Director of Commissioning<br>*or*<br>Director of Financial Control<br>*or*<br>Deputy Chief Financial Officer - Strategic Finance<br>*or*<br>Director of Financial Planning and Delivery<br>*or*<br>Deputy Chief Financial Officer - Operational Finance<br>Or<br>NHSX Chief Executive/GM Chief Officer<br><br>Or Chief Commercial Officer | Chief Executive<br>*or*<br>Chief Financial Officer<br>*or*<br>Chief Operating Officer<br>Or<br>Chief Delivery Officer |

The limits detailed below represent the transactional delegated limits and not contractual values for purchase/expenditure invoices, purchase orders, credit notes from suppliers. Further guidance is referenced in SFI 6.

## 22 Appendix 9: CSU Business Case Approval Routes

The approval routes for all CSU revenue business cases. Please refer to SFI 7.8 and 7.9 for further guidance.

| Approval limits | Up to £400k | Over £400k - £1m | Over £1m - £5m | Over £5m |
|---|---|---|---|---|
| **Delegation** | CSU Managing Director in accordance with CSU Operating Framework | Joint approval by the Director CSU Transition Programme and the Director of Finance and Assurance CSU Transition Programme. | Commercial Strategy Panel* | Commercial Executive Group* |

## 23 Appendix 10: CSU Contract Award Approval Limits

The approval route to enable CSUs to award a contract or framework agreement for CSU revenue expenditure following the completion of a contract award report.

| Up to £400k | Over £400k - £5m | Over £5m |
|---|---|---|
| **CSU Managing Director** | Commercial Strategy Panel | Commercial Executive Group |

# 24 Appendix 11: CSU Contract Signing limits for expenditure

The table below represents the contractual signing limits applicable to clinical and non-clinical contracts. For further guidance refer to SFI 7 and the applicable CSU operating frameworks.

| **Whole life contract value (including extension periods but excluding VAT)** | Commissioning Support Unit (CSU) expenditure on their own activities | | | | |
|---|---|---|---|---|---|
| | As set by CSU MD in approved Operating Framework | Up to £400k | Up to £1m | Up to £5m | Over £5m |
| **Approvers and/or restrictions** | Afc Band 5-8 | CSU Managing Director | Director of Financial Control<br><br>Deputy Director of Management Accounts & Assurance<br>or<br>Deputy Director of Group Accounting & Systems<br>or<br>(subject to prior recommendation by the CSU Transition Team) | Director of Financial Control<br>Or<br>Deputy Director of Management Accounts & Assurance<br>or<br>Deputy Director of Group Accounting & Systems<br>or<br>(subject to prior recommendation by the Commercial Strategy Panel) | Chief Executive<br>*or*<br>Chief Financial Officer<br>*or*<br>Deputy Chief Financial Officer - Strategic Finance,<br>or<br><br>Deputy Chief Financial Officer - Operational Finance<br>(subject to prior recommendation by the Commercial Executive Group) |

# 25 Appendix 12; CSU Service Level Agreements and Contract signing with Clinical Commissioning Groups, NHSE and other Commissioners

CSU Managing Directors or Director of Financial Control are authorised to sign and approve CSU contracts, contract variations, sales and credit note requests against service level agreements and contracts for services provided to Clinical Commissioning Groups, NHS England for direct commissioning support and other commissioners without financial limit, subject to the value being in line with the signed agreement or contract**.** Please refer to SFI 5 and applicable CSU operating framework

| Whole life contract value (including extension periods but excluding VAT) | **Commissioning Support Unit (CSU) expenditure on their own activities** | | | |
|---|---|---|---|---|
| | As set by CSU MD in operating framework | As set by CSU MD in operating framework | unlimited | unlimited |
| Approvers and/or restrictions | Band 8a to 8c | Band 8d to 9<br><br>(subject to prior recommendation by the CSU Transition Team) | CSU Chief Financial Officer | CSU Managing Director |

## 26 Appendix 13: CSU Contract Variations for expenditure on own activities

This table represents the approvals required for contract variations, additional guidance is as reference in SFI5.7

| Value of variation | Authorisation authority |
|---|---|
| Up to 10% of the original contract value subject to a maximum value variation of £400k | CSU Managing Director with recommendation from the CSU Procurement Lead. |
| Between 10 - 30% of the original contract value subject to a maximum value variation of £750k | Commercial Strategy Panel |
| Between 30 - 50% of the original contract value | Commercial Executive Group |

# 27 Appendix 14: CSU Approval Limits - All purchase requisitions, credit notes, invoices and non PO invoices for spend

The approval limits apply to all purchase requisitions, credit notes, invoices and non- PO invoices for CSU spend. A signed contract must always be in place for any spend. * CSUs have the discretion to agree in their operating framework a more precise definition of the roles and bandings (subject to the maximum levels in (Appendix 14) that can approve at these different limits.

| Requisition/ Invoice Value | Up to 50k* | Up to £100k* | Up to £200k* | Up to £1m | Up to £5m | Above £5m |
|---|---|---|---|---|---|---|
| **Approvers and/or Restrictions** | Band 8A-C:<br>Up to £50k<br><br>Band 7:<br>Up to £30k<br><br>Band 6:<br>Up to £10k<br><br>Up to Band 5:<br>Up to £5k | Band 9 and 8D | Other directors and ESMs | CSU Managing Director | Director of Financial Control<br><br>Or<br>Deputy Director of Management Accounts & Assurance<br><br>or<br>Deputy Director of Group Accounting & Systems | Chief Executive<br>or<br>Chief Financial Officer<br>or<br>Chief Operating Officer<br>or<br>Deputy Chief Financial Officer - Strategic Finance<br>or<br>Deputy Chief Financial Officer - Operational Finance |

## 28 Appendix 15: CSU Sales Orders and Credit notes delegated limits

| | | | | | |
|---|---|---|---|---|---|
| | **Level** | **Level** | **Level** | **Level** |
| | Contract Value | to £100k | to £500k | Up to £1m | Over £1m |
| **Approvers and /Or Restrictions** | All cost centres | Other Band 8 & 7 Budget Holders | Band 9 & 8d Budget Holders | Other Directors (ESM) | CSU Managing Director<br><br>Or<br><br>CSU Chief Financial Officer |

# 29 Appendix 16 Supply Chain Coordination Limited Shareholder Matters

## 29.1 Introduction

**29.1.1** Supply Chain Coordination Limited (SCCL) was transferred from the Department of Health and Social Care to NHS England on 1 October 2021.

**29.1.2** SCCL is a UK incorporated company and its Articles of Association include a range of matters reserved for shareholder decision. These will fall to the NHS England Board to approve prior to SCCL's Directors proceeding with any of these matters.

**29.1.3** This appendix sets out the specific matters reserved for NHS England Board approval and delegated to other NHS England Committees or the NHS England and NHS Improvement Chief Financial Officer.

## 29.2 Board approval

**29.2.1** Prior to Board approval, all proposals below would require a recommendation from the Chief Financial Officer, in consultation with other Executive Directors as appropriate.

**29.2.2** SCCL shall not, without prior approval from the NHSE Board do any of the following in relation to share capital:

- issue any shares, or consolidate, subdivide or convert any shares in the company, or create or grant any option or rights to subscribe for shares or convert into shares in the company;
- re-purchase or cancel any shares by the company, or capitalise, repay, reduce or distribute the amount (if any) standing to the credit of its share premium account or capital redemption reserve (if any) or any other reserve, or carry out any other reorganisation or reduction of the share capital of the company (excluding for these purposes the payment of any dividend);
- vary the authorised or issued share capital in the company; or
- acquire any shares or other interest in, or make any investment in, another company or business, or incorporate any subsidiary or dispose of any shares or dilute any interest in a subsidiary.

**29.2.3** SCCL shall not, without prior approval from the NHSE Board do any of the following in relation to shareholders:

- introduce new shareholders

**29.2.4** SCCL shall not, without prior approval from the NHSE Board do any of the following in relation to company articles of association or memorandum of association:

- make any arrangements with creditors generally or commence any winding-up or dissolution of or appoint any liquidator, administrator or administrative receiver of the company or any of its assets unless it shall have become insolvent, present or cause to be presented or allow any act which would result in the winding up or the presentation of any petition for the winding up of the company;

- refinance, securitise and/or sell any existing debt or investment of the company unless falling within the terms of a protocol or operational model which has been pre-agreed with the shareholder;

- enter into any contract that is not within the ordinary course of business of the company;

- approve the business plan (and included therein annual budget), and any material amendments to it agreed by the SCCL Board;

- enter into any contract or arrangement that is other than in the furtherance of health and social care and/or does not further the key objectives of the NHS Supply Chain;

- other than disclosed and approved in the business plan, participate in any partnership or joint venture (incorporated or not), or any revenue-sharing or profit-sharing agreement; and

- declare or make any distribution.

**29.2.5** SCCL shall not, without prior ratification from the NHSE Audit and Risk Assurance Committee and approval of the NHSE Board do any of the following:

- effect any significant change in the accounting principles and practices for the time being adopted by the company or change the accounting reference date;

- make any change to the general investment criteria to be applied by the company or the purposes to which the company applies its resources; and

- appoint or remove the external or internal auditors of the company

## 29.3 Investment and Resources Group approval

**29.3.1** SCCL shall not, without prior approval from the NHSE Investment and Resources Group do any of the following:

- enter into any single contract including any commitment to spend £1,000,000 or more (on an annualised basis during the financial year in which the contract is entered into);

    - excluding contracts in respect of employees, secondees, and consultants acting in a personal capacity and contracts included in the Business Plan, including the annual budget.

- matters will be escalated to the NHSE Board for any single revenue expenditure contract valued over £15,000,000 or capital expenditure contract valued over £35,000,000 (on an annualised basis during the financial year in which the contract is entered into), if they are contentious or if they meet other Board approval criteria for example of material changes to business;

## 29.4 People, Remuneration and Nominations Committee approval

**29.4.1** The Commercial Directorate and the Executive Human Resource Group have the delegated authority to manage all recommendations following consultation with Human Resources and Legal as appropriate.

**29.4.2** SCCL shall not, without prior approval from the NHSE People, Remuneration and Nominations Committee do any of the following:

- appoint or dismiss any director, the chairman of the company or make any change in the scope of authority of any director (recommendation from Commercial Directorate after consultation with HR and Legal);
- the fixing or payment of the remuneration of any director or provision of benefits of any nature whatsoever to any director, former director or any associate of any director or former director;
- the making of any provision for the benefit of any persons which is permitted by section 247 of the Companies Act 2006;
- the establishment or amendment of any pension scheme, or an increase in the amount of contributions to any director or former director or any member of any such person's family;
- the grant of any pension rights to any director or former director or any member of any such person's family; or
- the establishment or amendment of any profit-sharing, share option, bonus or other incentive scheme of any nature for directors or employees, or any increase in the amount of contributions thereto
- notwithstanding articles of association (7 (1) (o) (i) to (v)), save as set out in the Business Plan (approved by the shareholder in accordance with article 7 (1) (u)), agree or vary the terms of engagement, secondment and/or removal of or the terms of any other agreement relating to any director or senior personnel (comprising all those persons, whether employees, secondees, consultants or other professionals whose remuneration exceeds £100,000 per annum).
    - In providing or not providing prior written consent the NHSE Board shall have regard to HM Treasury's guidance for the approval of senior pay as amended or updated from time to time. This includes variations in connection with performance ("bonus") arrangements.
- Appoint or remove the company's Chief Executive Officer.

## 29.5 NHS England and NHS Improvement Chief Financial Officer approval

**29.5.1** SCCL shall not, without CFO approval do any of the following:

- enter any financing transactions or transactions that can be regarded as financing transactions (for example sale and leaseback arrangements).