

# **NHS ENGLAND BUSINESS CASE APPROVALS PROCESS GUIDANCE**

**Capital Investment, Property, Equipment  
& Digital Technology proposals**

**June 2018**

**NHS England INFORMATION READER BOX****Directorate**

Medical	Operations and Information	Specialised Commissioning
Nursing	Trans. & Corp. Ops.	Strategy & Innovation
<b>Finance</b>		

**Publications Gateway Reference: 08130**

<b>Document Purpose</b>	Guidance
<b>Document Name</b>	NHS England, Business Case Approvals Process Guidance
<b>Author</b>	NHS England, Project Appraisal Unit
<b>Publication Date</b>	08 June 2018
<b>Target Audience</b>	CCG Clinical Leaders, CCG Accountable Officers, CSU Managing Directors, NHS England Regional Directors, NHS England Directors of Commissioning Operations, Directors of Finance, Communications Leads, Capital and Estates Leads, NHS Property Companies, Sustainability and Transformation Partnerships
<b>Additional Circulation List</b>	
<b>Description</b>	This refresh of the NHS England business case development, assurance and approval process guidance has been developed to enable commissioners, Sustainability and Transformation Partnerships and regional teams to develop and assure business cases, which are properly constructed and have strong local ownership to aid timely and efficient approval decision making.
<b>Cross Reference</b>	HM Treasury. The Green Book: appraisal and evaluation in central government
<b>Superseded Docs (if applicable)</b>	NHS England, Business Case Approvals Process for Capital Investment, Gateway reference 00324, first published on 14th August 2013.
<b>Action Required</b>	
<b>Timing / Deadlines (if applicable)</b>	
<b>Contact Details for further information</b>	Questions in relation to this process should be directed to the Senior Finance Manager/s for the relevant Region in the NHS England Project Appraisal Unit. These personnel and their contact details are listed in paragraph 2.1.14, Table 1, on page 15
<b>Document Status</b>	This is a controlled document. Whilst this document may be printed, the electronic version posted on the intranet is the controlled copy. Any printed copies of this document are not controlled. As a controlled document, this document should not be saved onto local or network drives but should always be accessed from the intranet.

# **NHS England Business Case Approvals Guidance**

## **Capital Investment, Property, Equipment and ICT**

Version number: 2.0

First published: 14<sup>th</sup> August 2013

Updated: June 2018

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Classification: OFFICIAL;

This information can be made available in alternative formats, such as easy read or large print, and may be available in alternative languages, upon request. Please contact Robert Gregory on [robert.gregory5@nhs.net](mailto:robert.gregory5@nhs.net)

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## Key Messages

- “The NHS is committed to providing best value for taxpayers’ money and the most effective, fair and sustainable use of finite resources” - this is one of the seven key principles set out in the NHS Constitution to guide the NHS (and thus NHS England) in all that it does. In the current strategic context – the Five Year Forward View, the evolution of new care models and Sustainability and Transformation partnerships - this principle has absolute relevance and more than ever before there is a need to ensure that our available capital resources are appropriately prioritised and targeted at investment which will support delivery of the vision and achieve value for money.
- Our aim is to provide better access to a greater range of services out of the hospital environment and closer to patients’ homes, while also exploiting the potential of information and technology to transform care for patients. We need to target capital investment to support the NHS in this ambition, working within the context of new care models and integrated care systems where hospital, community and primary care services are better integrated around the needs of individual patients.
- The need for capital to support this radical transformation of the NHS landscape will place increasing pressure on already stretched and finite resources for investment. Proportionate but rigorous capital prioritisation and scrutiny are therefore vital to ensure that the most critical schemes objectively demonstrate that they are soundly based on local priorities, and secure the support they need to progress through formal approval to delivery on the ground as quickly and efficiently as possible.
- This refresh of the NHS England guidance coincides with a focused programme of capital investment to support Sustainability and Transformation Partnerships in delivering and maintaining the necessary infrastructure and estate in all sectors of the NHS, and is aimed at supporting NHS England and its partner organisations in developing business cases that will secure timely and efficient capital investment approval decision making processes to support this programme. This guidance is complementary and aligned to the *Capital Regime, Investment and Property Business Case Approval Guidance for NHS Trusts and Foundation Trusts* (NHS Improvement, 2016), which is the primary reference for business case process in the provider trust sector.
- Our approach to capital investment assurance and appraisal is designed to support the Sustainability and Transformation Partnerships by enabling the rapid development of robust capital plans which are aligned with strategic clinical and estate strategies, maximise value for money (including land sales) and address backlog maintenance - priorities identified in Sir Robert Naylor’s review, ‘NHS

Property and Estates: Why the estate matters for patients' (March 2017). That review recognises that there is a requirement for strong business cases to be developed in order to seek capital support by Government to these plans.

- This refresh of the NHS England guidance responds to the commitments, made in the Government response to Sir Robert Naylor's review, in January 2018, that NHS England will focus efforts on building capability to ensure high quality capital investment business cases come forward for approval, supporting NHS organisations to develop business cases that meet the required standards and ensure that business case approval processes are as efficient as possible.
- It is published following an extensive period of revision informed by consultation with stakeholders, most importantly those who work most closely with the development, assurance and delivery of NHS capital investment projects and programmes. The changes in this refresh of the guidance respond to requests from our stakeholders to provide it in the easiest to access format possible.
- The NHS England business case development, assurance and approval process has been developed to enable local commissioners, Sustainability and Transformation Partnerships and regional teams to develop and assure business cases, which are properly constructed and have strong local ownership, with greater confidence that investment propositions will be "right first time" and can sustain timely and efficient approval decision making.
- It should be noted that the term 'Business Case' as used in this paper is distinct from the 'Corestream' business cases required by NHS England Commercial for the purposes of securing procurement and spend approval for NHS England investments. In some cases, where approval is confirmed in accordance with the guidance in relation to a capital investment business case which proposes procurement of the relevant goods and/or services by NHS England, there will be a requirement for a 'Corestream' business case to seek subsequent procurement and spend approval.
- It is strongly recommended that business case sponsors should liaise with NHS England Commercial early on in any business case development process in order to understand the allied process for securing procurement and spend approval, so as to avoid any duplication of effort and to ensure timely approval processes.

# 1. Introduction

1.1 This guidance takes as its foundation the NHS England Standing Financial Instructions (SFIs) and Scheme of Delegation, and provides a guide to navigate staff through the guiding principles, rules of delegation and underpinning processes upon which all officers of NHS England<sup>1</sup> and Clinical Commissioning Groups (CCGs) should base their approach to the development, assurance and approvals process for propositions to commit NHS England or CCGs to:

- the expenditure of capital, or investment in property, infrastructure or information and communications technology; or
- the revenue expenditure or consequences for commissioners directly where a third party makes any such investment at their request or discretion;

For convenience these propositions are collectively referred to as 'Business Cases'.

1.2 This edition of the guidance takes particular account of the impact on capital investment planning of a number of key strategic drivers, including:

1.2.1 NHS England Five Year Forward View (October 2014);

1.2.2 NHS England General Practice Forward View (April 2016);

1.2.3 Next Steps on the Five Year Forward View (March 2017);

1.2.4 NHS Property and Estates: Why the estate matters for patients (March 2017);

1.2.5 The Government Response to the Naylor Review (January 2018);

1.2.6 NHS Sustainability & Transformation Partnerships;

1.2.7 Department of Health and Social Care guidance and direction to commissioners in relation to the establishment of Local Estate Strategies;

1.2.8 Planning, Assuring and Delivering Service Change for Patients (NHS England, March 2018);

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<sup>1</sup> for this purpose, NHS England includes Commissioning Support Units (CSUs) and all other organisations hosted by NHS England

- 1.2.9 The National Health Services (General Medical Services – Premises Cost Directions) 2013 (as revised from time to time);
- 1.2.10 NHS England Learning Disability Transforming Care Programme and new protocols for making associated capital investment grants;
- 1.2.11 The NHS England Estates and Technology Transformation Fund;
- 1.2.12 Agreed operating models established between NHS England, NHS Property Services Ltd and Community Health Partnerships.

A number of further changes to these strategic drivers are anticipated in the coming months, which could have an impact on this guidance. For example:

- A proposed revision to the National Health Services (General Medical Services – Premises Cost Directions);
- Evolving plans for the NHS devolution agenda.

This guidance will be further refreshed during 2018/19 to reflect any changes made, and in the meantime the NHS England Project Appraisal Unit can provide advice as to whether any change introduced subsequent to publication of this guidance has had a significant impact on any of the business case development, assurance and approval requirements that are set out within it.

- 1.3 For the remainder of this guidance the term ‘business case sponsors’ will be used as a collective reference, where appropriate, to refer to those who promote a business case whether within NHS England, its hosted organisations or CCGs.
- 1.4 This edition of the *Business Case Approvals Process Guidance for Capital Investment, Property, Equipment & ICT* also provides specific guidance for CCGs in relation to:
  - 1.4.1 the prioritisation and expenditure of NHS England capital by all CCGs;
  - 1.4.2 the exercise of delegated powers by appropriately delegated co-commissioning CCGs in the making of capital grants under *The National Health Service (General Medical Services – Premises Costs) Directions 2013*;
  - 1.4.3 primary care schemes where the capital funding source is to be via NHS Property Services Customer Capital or a Public Private Partnership (PPP), for example a Local Improvement Finance Trust (LIFT);
  - 1.4.4 the prioritisation of NHS Property Services Customer Capital for deployment on CCG sponsored projects.

- 1.5 As capital resources are finite, there is an expectation that proposals will have been prioritised for capital support, reconciled to and checked for consistency with sustainability and transformation partnership plans and agreed as part of the NHS England capital investment and business case 'pipeline' before they are worked up into Business Cases for approval in accordance with this guidance, following Department of Health and Social Care and HM Treasury best practice.
- 1.6 For clarity, this guidance is concerned with the rules and processes by which, through a Business Case:
- 1.6.1 approval from NHS England should be sought to permit capital expenditure by or on behalf of NHS England and/or CCGs;
- 1.6.2 approval should be sought to enter into any leasing arrangements by or on behalf of NHS England and/or CCGs for land, buildings and/or equipment (including managed services, e.g. for information and communications technology solutions);
- 1.6.3 authority should be sought for NHS England to enter into a legally enforceable commissioning commitment:
- To provide any transition or transaction support to capital investment projects and programmes.
  - To underpin, recognise or confirm support for the revenue implications of a third party (e.g. NHS Property Services Limited, Community Health Partnerships Limited or a provider trust) investing capital, or entering into a lease commitment.
- 1.6.4 authority should be sought for NHS England to enter into 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.
- 1.7 Advice should be sought from the Project Appraisal Unit if there is any doubt as to whether any particular proposal is a capital commitment requiring formal approval as such under the relevant provisions of the NHS England Standing Financial Instructions and Scheme of Delegation.
- 1.8 Examples of commissioner commitments include support to an investment of NHS Property Services Ltd customer capital, a PPP, e.g. LIFT, or PFI scheme, or a public funded development whether or not driven by wider service change and/or reconfiguration
- 1.9 As regards proposals for service change and reconfiguration, the extent to which these drive requirements for capital investment, and the approach to be taken to associated business case development, assurance and approval, please refer to Planning, Assuring and Delivering Service Change for Patients (NHS England, March 2018). This makes clear the requirements for NHS commissioners to ensure that the rigour and disciplines applied in the early

stages of planning for service change will confidently sustain any capital investment business cases that affected NHS organisations will need to bring forward later on. If in doubt as regards requirements, please seek advice from the NHS England Project Appraisal Unit.

- 1.10 The following are examples of the types of Business Case commitment that this guidance covers. This is not an exhaustive list, and is provided for illustrative purposes only:
  - 1.10.1 new and replacement healthcare facilities, e.g. health centres, urgent treatment centres, urgent & emergency care centres, diagnostic and treatment facilities, hospitals, and refurbishment of existing healthcare facilities;
  - 1.10.2 new and replacement clinical equipment (where capitalisable), e.g. imaging equipment, for example radiology and ultrasound;
  - 1.10.3 new and replacement administrative facilities, e.g. offices and headquarters;
  - 1.10.4 new and replacement non-clinical equipment, e.g. office furniture and equipment (where capitalisable), telephony;
  - 1.10.5 new and replacement clinical information systems and managed services arrangements, e.g. Electronic Patient Record, Picture Archiving & Communications systems, Radiology Information Systems, Community & Child Health systems, Electronic Prescribing systems, systems which are part of the Personalised Health & Care 2020 (Using Data and Technology to Transform Outcomes for Patients and Citizens) portfolio;
  - 1.10.6 new and replacement non-clinical information systems and managed services arrangements, e.g. Finance systems, Performance Management reporting systems, Office Administration systems.
- 1.11 At an early stage of project development, sponsors and project management teams should ascertain with clarity whether or not a proposed commitment in respect of NHS England revenue might be counted as 'capital' for approval purposes, for example where revenue is being deployed for service development, but includes procurement of a managed information system that has to be considered for approval as a capital investment transaction under the rules set out by the DHSC, and which may well also be subject to Cabinet Office spending controls.
- 1.12 The approval and authorisation of capital grants to GMS providers made in compliance with the *National Health Service (General Medical Services – Premises Costs) Directions 2013* (as revised from time to time) (the Directions) is delegated to local Director of Commissioning (DCO) offices.
- 1.13 Commissioners approving capital grants in these circumstances should follow the Directions and liaise with NHS England Legal to ensure that the necessary

capital grant agreements and appropriate security, e.g. property charge, is set in place before making the relevant payments.

- 1.14 Any other deployment of capital to GMS, PMS or APMS providers not strictly in accordance with the *National Health Service (General Medical Services – Premises Costs) Directions 2013* will require approval by the NHS England Chief Financial Officer, Investment Committee or Board, as appropriate, in accordance with the business case process set out in this guidance.

## 2. Guiding Principles

2.1 The NHS England approach to Business Case development, and the subsequent assurance and approval process, is underpinned by a number of guiding principles that must be taken into account by all those involved:

- 2.1.1 available resources are finite, and so all Business Cases must be consistent with nationally established priorities for determining the use of resources for strategic investment available for commitment by or on behalf of NHS England and/or in response to NHS commissioning requirements;
- 2.1.2 proposals will have been reconciled to the relevant STP, prioritised for strategic investment and agreed as part of the capital investment and business case 'pipeline' (or equivalent planning and prioritisation process, e.g. STP estate strategy and capital programme, Estates & Technology Transformation Programme, Personalised Health & Care 2020 (Using Data and Technology to Transform Outcomes for Patients and Citizens) portfolio,) before they are worked up into Project Initiation Documents and/or Business Cases for approval in accordance with this guidance. Any interdependencies with other / parallel investments necessary to sustain the claimed benefits of a proposal must be made explicit;
- 2.1.3 all proposed commitments must be supported by Business Cases which are compliant with the relevant Department of Health and Social Care (DHSC), HM Treasury and NHS England guidance (the 'Guidance')<sup>2</sup> and which demonstrate best value for money, affordable and deliverable proposals which have demonstrable health economy support;
- 2.1.4 the aim at all times should be to work to the principles of a 'right first time' and 'once only' process of development, assurance and approval for all Business Cases;
- 2.1.5 there is no requirement for commissioners to approve NHS Property Services business cases for investment by them of non-discretionary 'landlord' capital to maintain the buildings for which they are responsible;
- 2.1.6 an integrated process of Business Case assurance (described later in this paper) will operate across local DCO offices, Sustainability and Transformation Partnerships, Regional and National Team levels of the organisation, with CCGs and Commissioning Support Units (CSUs)

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<sup>2</sup> for example, Capital Investment Manual (DH, 1994), NHS Health Building Note 00-08 - The Efficient Management of Healthcare Estates and Facilities (DH, 2007) and HM Treasury Five Case Model (HM Treasury, 2007). See references.

and the CSU Transition Team (CSU TT), to support the 'right first time' and 'once only' principles;

- 2.1.7 business case options appraisal must take as a starting point that there should be no preconceived ideas as to the preferred option. This should be selected strictly on the basis of a robustly conducted process to determine the best value for money, affordable and deliverable solution. Following the Guidance will ensure that decision making is objective and soundly based, and that the Business Case demonstrates this accordingly. This will ensure the most appropriate stewardship of NHS financial resources and safeguard tax payers' interests;
- 2.1.8 primary responsibility for Business Case development and navigating through assurance processes to approval should be conducted by appropriate officers on behalf of the relevant business case sponsor, e.g. within the NHS England local DCO offices, Sustainability and Transformation Partnerships, CCGs, the Regional Team, the CSU, the CSU Transition Team or the National Team. This will require those officers to ensure compliance with the five case model investment principles (strategic, economic, financial, commercial and management cases);
- 2.1.9 business cases submitted for NHS England approval must have the confirmed support / approval of the relevant sponsor in writing.
- 2.1.10 where the project sponsor sits within the local DCO Office, Sustainability and Transformation Partnership or Regional Team, the Business Case approval submission to the National Team must be accompanied by an assurance and recommendation statement from the Regional Director of Finance which confirms that he/she is satisfied the investment proposals are soundly based, that the case for change is robust, and consistent with locally recognised commissioning plans and an aligned estates strategy, that the proposals are value for money, affordable to commissioners, and deliverable, and are supported by an appropriately detailed Business Case that meets all relevant requirements. Where the project is sponsored by the National Team, the assurance and recommendation statement should be made by the sponsoring National Director, and will need to meet the requirements set out above.
- 2.1.11 where the project sponsor sits within a CSU, and the proposition is for capital investment beyond its delegated limit for approval, the Business Case submission for approval must be accompanied by an assurance and recommendation statement from the Director of Finance and Assurance at the NHS England Commissioning Support Unit Transition Team (CSU TT).
- 2.1.12 The NHS England Project Appraisal Unit is a team comprising experienced capital investment and estates professionals who will be

available to provide support to officers of NHS England at local DCO offices, Sustainability and Transformation Partnerships, Regional Team, Commissioning Support Units, CSUTT and National Team levels, and to CCGs, as they:

- develop 'right first time' Business Case submissions;
- pilot these through a 'once only' assurance process to an approval decision.

2.1.13 The NHS England Project Appraisal Unit will accordingly focus its efforts, primarily on providing pin-point advice to project sponsors and their delivery partners as they develop commitment propositions and the associated Business Cases, so that finalised Business Cases at the point of submission will already have pre-empted all material assurance / approval critical issues.

2.1.14 The NHS England Project Appraisal Unit can be accessed as set out in *Table 1* below:

**Table 1. Project Appraisal Unit (PAU) Contact List**

<b>North</b>	Sue Stockley	07876 851 896 <a href="mailto:sue.stockley@nhs.net">sue.stockley@nhs.net</a>
	Ian Nuttall	07919 298956 <a href="mailto:ian.nuttall@nhs.net">ian.nuttall@nhs.net</a>
	Donna Hewitt	07710 152827 <a href="mailto:donna.hewitt@nhs.net">donna.hewitt@nhs.net</a>
<b>Midlands &amp; the East</b>	John Loftus	07824 529450 <a href="mailto:john.loftus3@nhs.net">john.loftus3@nhs.net</a>
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	Phil Smith	07770 685923 <a href="mailto:phil.smith8@nhs.net">phil.smith8@nhs.net</a>
<b>London</b>	Adeeb Azam	07943 871908 <a href="mailto:adeeb.azam@nhs.net">adeeb.azam@nhs.net</a>
	Simon Greenfield	07801 260036 <a href="mailto:simongreenfield@nhs.net">simongreenfield@nhs.net</a>
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	Glen	07768 487701

	Mackie Paul Richards	<a href="mailto:glenmackie@nhs.net">glenmackie@nhs.net</a> 07876 502661 <a href="mailto:paul.richards7@nhs.net">paul.richards7@nhs.net</a>
<b>Primary Care Infrastructure Fund Programme</b>	Jo Fox	07568 431596 <a href="mailto:jo.fox@nhs.net">jo.fox@nhs.net</a>

2.1.15 It should be noted that where NHS England is being asked to confirm support for capital investment by a third party (e.g. NHS provider Trust, Foundation Trust, NHS Property Services Ltd, Community Health Partnerships or other third party investor) and/or transitional or transactional support, e.g. related to service change and reconfiguration, the requirement for capital investment approval in line with the NHS England Standing Financial Instructions and Scheme of Delegation remains, and the statement of commissioner support may only be provided following approval being granted in line with this guidance.

2.1.16 Where it is deemed appropriate for capital investment proposals to be tested for privately financed funding, and where a privately financed option is selected over options utilising public sector financing, there must be a robust demonstration that this delivers value for money to the NHS, and genuinely transfers an appropriate level of risk to the private sector. For further information regarding private finance testing please refer to the relevant Project Appraisal Unit team member set out in Table 1, above.

### 3. Investments of less than £1 million

- 3.1 There is a streamlined process for sanctioning most investments of less than £1 million on a batched basis via use of a proforma schedule of key information<sup>3</sup>. The Project Appraisal Unit can provide further advice and guidance on use of this process and when it may be applied. It should be noted that use of the streamlined process for sanctioning investments of less than £1 million does not remove the requirement for approving officers to assure themselves that appropriate rigour and analysis underpins the plans for any such investments.

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<sup>3</sup>This approach will not be available for Business Cases for investment of less than £1 million which involve administrative property transactions, or for any Business Cases requiring approval by the Department of Health and/or the Cabinet Office, for example non clinical ICT schemes.

## 4. Capital grants to General Practitioners

- 4.1 *The National Health Services (General Medical Services – Premises Costs) Directions 2013* (the Directions) provides guidance as regards decision making and approval in relation to the making of capital grants to General Practitioners for premises improvements. Authority has been delegated to Directors of Finance in the NHS England regional teams and local DCO offices to approve capital grants under these Directions. All other capital investment approval decisions by NHS England are as per the delegations set out in Table 2 on page 21, and this is currently the only exception to that table.
- 4.2 It should be noted that at the time of publishing this guidance, updated *National Health Services (General Medical Services – Premises Costs) Directions* are in development and are expected to be published sometime in 2018/19. This guidance will be updated as soon as practical following the publication of any updated *National Health Services (General Medical Services – Premises Costs) Directions*. The Project Appraisal Unit can provide advice in relation to this issue.

## 5. Establishing Business Case Value for Approval Purposes

- 5.1 For the purposes of determining capital value as it is applied to the NHS England approval thresholds it should be noted that:
- 5.1.1 for direct capital investment by NHS England or a CCG, the total capital cost including VAT denotes the capital value;
  - 5.1.2 for direct investment of discretionary (Customer) capital by NHS Property Services Ltd or Community Health Partnerships in properties where they already own the freehold or already have the leasehold interest, the total capital cost including VAT, net of any external grants, denotes the capital value;
  - 5.1.3 For information and communications technology (ICT) investment funded via managed service or similar arrangements (where a revenue service charge is paid over the term of the contract for the goods and services) the capital value for approval purposes is determined by the whole life costs of the investment. Whole life costs are: the total costs of the project over the life of the contract; including: capital costs, revenue costs, IM&T staff costs, project management costs and training costs. The whole life cost is not discounted and does not include: capital charges or depreciation, the cash-releasing benefits, the non-cash releasing benefits, the cost of non-IM&T staff that may use the systems (e.g. pathology staff). The cost avoided of the existing IM&T systems should not be included: nor should VAT, whether recoverable or non-recoverable by the NHS body;
  - 5.1.4 For equipment leases and new property lease commitments the capital value for approval purposes is determined by the whole life cost payable under the contract, excluding any VAT. To clarify, this includes any servicing and materials that must be paid for under the contract, even if these are itemised separately, and any enabling capital expenditure that is required e.g. premises alterations to accommodate the equipment or, in the case of property, to make it suitable for the occupier's use. The relevant term over which to calculate the whole-life cost is the contractual term. In the case of property, any break points that are exercisable only by the occupier should be ignored, as should any statutory right of renewal;
  - 5.1.5 For Local Improvement Finance Trust (LIFT) schemes, the capital value for approval purposes is interpreted as 'the costs of land (whether contributed by the public sector or purchased by the private sector), construction costs, equipment costs, professional fees, rolled-up interest incurred during the construction period, and financing costs such as bank arrangement fees, bank due diligence fees, banks' lawyers' fees and third-party equity costs plus irrecoverable VAT'. Any capital costs that will be incurred directly by the NHS in progressing the

scheme must also be included. These principles are expected to apply to any similar PPP arrangements established in non-LIFT areas;

- 5.1.6 For Private Finance Initiative funded schemes the capital value for approval delegation purposes is determined by assessing the total capital cost to the private sector including the cost of construction, equipment, professional fees, rolled-up interest and financing costs such as bank arrangement fees, bank due diligence fees, banks' lawyers' fees, and third party equity costs plus irrecoverable VAT. Any capital costs that will be incurred directly by the NHS in progressing the schemes must also be included. Typical examples include land purchased from outside the NHS, equipment and enabling works.

## 6. Delegated Limits

- 6.1 Subject to the definitions at paragraph 5, above, the delegated limits for authorising NHS England approval of any Business Case for capital investment are set out in Table 2. The delegated limits are specifically varied for certain types of CSU investment (see paragraphs 7.1 and 7.2 below), and additional restrictions apply to certain categories of Information and Communications Technology investment (see paragraphs 11.1 to 11.3 below).

**Table 2. Approval authority by Financial Value of the Investment or Transaction**

<b>Financial Value of the Capital Investment or Transaction</b>	<b>Approval Authority</b>
Commitments up to £1 million in an NHS England Region in respect of General Practice Information Technology (GPIT) and/or Estates and Technology Transformation Programme Digital Technology or such other sum (not in any event exceeding £1 million) as the NHS England Chief Financial Officer may, in his discretion, from time to time determine	NHS England Director of Finance for that Region (following confirmation in writing that the NHS England Chief Financial Officer has confirmed, in his discretion, that delegation in relation to the relevant NHS England Region has been approved).
Commitments up to £5 million for Devolution Programmes authorised by the Commissioning Committee, or such other sum (not in any event exceeding £5m) as the NHS England Chief Financial Officer may, in 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 (following confirmation in writing that the NHS England Chief Financial Officer has confirmed, in his discretion, that delegation in relation to the relevant Devolution Programme has been approved).
Commitments up to £20 million	NHS England Chair or Chief Executive or Chief Financial Officer
Commitments of £20-£35 million	NHS England Investment Committee
Commitments of £35-£50 million	NHS England Board*
Commitments over £50 million	NHS England Board, Department of Health and Social Care, and then HM Treasury

*\* Business cases for all categories of capital investment except information management and technology (IM&T) between £35 million - £50 million require notification to the Department of Health and Social Care even though they are within the NHS England delegated authority. This requirement is varied for IM&T investment where all business cases between £30 million - £50 million require notification to the Department of Health and Social Care even though they are within the NHS England delegated authority.*

## 7. Commissioning Support Units

- 7.1 The scheme of delegation set out at Table 2, above, is subject to a limited exception in respect of certain capital commitments proposed by CSUs. Exceptionally, any proposed CSU capital commitment of less than £1 million that is in respect of a CSU programme that is anticipated and described within its approved budget may be sanctioned by the CSU Managing Director and Chief Financial Officer (acting jointly but not individually) without the need for any further approval, subject to the CSU having first secured agreement in principle from the NHS England CSU Transition Team to this use of NHS capital resources.
- 7.2 This exception specifically does not apply where a CSU capital commitment of less than £1 million relates to either:
- 7.2.1 Non-clinical (including administrative) ICT investment for systems/services procured by a CSU where they are intending to provide such systems and services specifically for use by NHS England as a commissioner in which case the limited exception is reduced to £100,000. This is because NHS England, unlike CSUs and CCGs, is subject to the Cabinet Office spending controls in relation to non-clinical (including administrative) ICT; or
  - 7.2.2 Administrative facilities where, for exceptional reasons agreed by or on behalf of the Board, a new property requirement is not intended to be provided by either of NHS Property Services Ltd, Community Health Partnerships or via other civil estate, in which case the exception does not apply at all, and approval for any such proposition needs to be carried out as per the scheme of delegation at Table 2, above.

## 8. Regional Teams

- 8.1 The scheme of delegation provides for Regional Directors of Finance, at the discretion of the NHS England Chief Financial Officer, to be delegated approval authority for capital investment commitments in respect of General Practice Information Technology (GPIT) and/or Estates & Technology Transformation Programme Digital Technology up to £1m, or such other sum (not in any event exceeding £1m) as the NHS England Chief Financial Officer may, in his discretion, from time to time determine.
- 8.2 Delegated capital investment approval authority to Regional Directors of Finance for this purpose will be determined on a region by region basis and only become operational once confirmation of such delegation has been provided in writing by the Chief Financial Officer.

## 9. Devolution Programmes

- 9.1 The scheme of delegation provides for devolution programmes authorised by the Commissioning Committee to be delegated capital investment approval authority to commitments up to £5m, or such other sum (not in any event exceeding £5m) as the NHS England Chief Financial Officer may, in his discretion, from time to time determine. This authority would be delegated on a case by case basis to devolution programme Chief Officers and Finance & Investment Leads (acting jointly), or such equivalent titles as may be agreed for these positions.
- 9.2 At the time of preparing this guidance, one devolution programme has so far been granted a delegated capital investment approval authority of £5 million. Individual devolution programmes will have the matter of capital investment approval authority addressed as part of their initial set up, or subsequent to set up as part of an earned autonomy arrangement.
- 9.3 Delegated capital investment approval authority to devolution programmes will be determined on a case by case basis and only become operational once confirmation of such delegation has been provided in writing by the Chief Financial Officer.

## 10. Clinical Commissioning Groups

10.1 The NHS England delegated limits for capital investment approvals do not extend to Clinical Commissioning Groups (CCGs) since these are independently constituted organisations which have their own processes for capital investment approval. It is important to be aware that:

10.1.1 in all cases where a Business Case relates to a mix of activity, for some of which both a CCG and NHS England have/retain statutory accountability, and is therefore jointly sponsored by a CCG and NHS England as relevant accountable commissioners, the business case will fall within the ambit of the NHS England Business Case Approval Process, and will require to be prioritised and approved by NHS England. This applies to jointly sponsored projects even where the CCG is a fully delegated Level 3 co-commissioner;

10.1.2 Where a CCG sponsored Business Case relating solely to CCG commissioned activity requires investment of NHS England discretionary capital or NHS PS discretionary (Customer) capital, in addition to approval by the relevant CCG Board/s, the relevant NHS England Regional Director of Finance will need to confirm that the proposed investment is recognised in the NHS England capital investment and business case 'pipeline' as one that is a priority for capital investment before the scheme may proceed into development. This confirmation will be provided through approval to a Project Initiation Document submitted by the relevant CCG, and will be a key approval point prior to a CCG sponsored business case going into development.

10.1.3 It should be noted that where CCGs are intending to invest capital to secure goods and services, although they will operate governance through their own internal processes, they will first need to secure CCG capital resources from NHS England via the annual planning process and related procedures for earmarking and drawdown of capital by CCGs.

10.1.4 Whilst functioning autonomously, CCGs are intrinsically linked to NHS England in relation to the exercise of capital investment assurance and approval processes, and the distinction between the responsibilities of CCGs and NHS England respectively in relation to CCG capital investment has been drawn out in various sections of this guidance paper. CCGs are recommended to take account of the capital investment business case approvals process operated by NHS England, in line with HM Treasury and DHSC requirements, and where appropriate to draw on the key principles set out when exercising CCG capital investment governance. In support of this the Project Appraisal Unit is available to provide advice and guidance to CCGs.

10.1.5 Approval of business cases for investment of capital in primary care services, irrespective of the source of capital, is a reserved power of

NHS England which is not delegated to CCGs. For example, where a level 3 co-commissioning CCG intends to secure capital investment in primary care premises, then the CCG business case will require NHS England capital investment approval via the process set out in this guidance.

## 11. Additional requirements applying to NHS England investment in Information and Communications Technology

- 11.1 Any proposed investment in ICT (including managed service commitments) may require formal approval as a capital commitment. Advice should be sought from the Project Appraisal Unit well in advance of the need to develop an ICT business case to support the proposed commitment by NHS England, in order to ensure that the appropriate process is followed dependent on the nature and value of the proposed ICT contract and the goods and services to be procured.
- 11.2 As NHS England is an Arm's Length Body, the scheme of delegation set out at Table 2, above, is subject to additional spend approval limits and restrictions in respect of business cases relating to ICT<sup>4</sup> that are covered by the Cabinet Office (CO) spending controls. In summary, the additional requirements that apply to ICT Business Cases are:

<p><b>Non-clinical ICT administrative expenditure:</b></p> <p>Systems and services for use by NHS England with a whole life cost of greater than £100,000 and less than £1 million.</p> <p>Systems and services for use by NHS England with a whole life cost of greater than £1 million<sup>5</sup>.</p>	<p>To be notified to the Department of Health and Social Care Estates and Information Services (E &amp; IS) team, who will review the proposed spend and provide advice prior to NHS England proceeding with any proposed investment.</p> <p>As above, but will also require review and approval by the Cabinet Office Efficiency and Reform Group (ERG).</p>
<p><b>Non-clinical other ICT expenditure:</b></p> <p>Systems and services for use by NHS England with a whole life cost of greater than £3 million.</p>	<p>To be notified to the Department of Health and Social Care Estates and Information Services (E &amp; IS) team, who will review the proposed spend provide advice, and then seek the</p>

<sup>4</sup> New ICT spend includes any new ICT contracts, contract amendments, contract extensions, feasibility and/or proof of concept studies, pilots, projects and programmes. It also covers using existing framework contracts to purchase ICT. For any proposed investments that are included under the requirement at 11.2, above, no new OJEU notices should be issued to imply that ICT based contracts will be started without the express permission of the Cabinet Office Efficiency and Reform Group (ERG) (unless such investments are below the thresholds for ERG approval).

<sup>5</sup> Includes finance, HR or procurement activities or upgrades and hosting contracts for such systems.

	separate approval of the Cabinet Office Efficiency and Reform Group.
<p><b>Clinical ICT expenditure</b></p> <p>Systems and services for use by NHS England with a whole life cost of greater than £5 million.</p>	<p>To be notified to the Department of Health and Social Care, who will review the proposed spend, provide advice, and then seek the separate approval of the Cabinet Office Efficiency and Reform Group.</p>

- 11.3 NHS England Commercial can provide advice as regards accessing and engaging with the Department of Health and Social Care and Cabinet Office spending controls teams.

## **12. General points to note in relation to approval thresholds**

- 12.1 Irrespective of the approval thresholds set out in this paper, the approving authority for any Business Case may refer any proposal deemed to be novel (strikingly new, unusual or different) or contentious (involving or likely to cause contention; controversial), regardless of cost, to the NHS England Chief Financial Officer, Investment Committee or Board, as the case may be, for a view and/or approval decision.
- 12.2 Where two or more schemes have similar timelines and strategic rationales and it makes sense to batch them together to achieve best value for money due to economies of scale, it is recommended that they are batched together.
- 12.3 No investment proposition should be artificially fragmented in order to seek approval under a lower approval threshold.
- 12.4 Similarly, where one proposed capital investment business case is linked to another or there are interdependencies between them, they should not be progressed separately for approval, i.e. the approving body needs to take each of those component business cases into account when considering the approval decision. Where timing of the various components is an issue, advice should be sought from the Project Appraisal Unit as regards required handling.

## 13. Achieving an Approvable Business Case: Guidance Notes

### 13.1 Capital Investment approval as distinct from Spend approval

- 13.1.1 It should be noted that the term 'Business Case' as used in this paper is distinct from the 'Corestream' business cases required by NHS England Commercial for the purposes of securing procurement and spend approval for NHS England investments. In some cases, where approval is confirmed in accordance with the guidance in relation to a capital investment business case which proposes procurement of the relevant goods and/or services by NHS England, there will be a requirement for a 'Corestream' business case to seek subsequent procurement and spend approval. It is strongly recommended that business case sponsors should liaise with NHS England Commercial early on in any business case development process in order to understand the allied process for securing procurement and spend approval, so as to avoid any duplication of effort and to ensure timely approval processes. The Project Appraisal Unit can provide advice and guidance in relation to this issue.

### 13.2 Best practice

- 13.2.1 All cases at each key stage (e.g. Business Justification Case, Programme Business Case, Strategic Outline Case (SOC), Outline Business Case (OBC) / LIFT Stage 1, Full Business Case (FBC) / LIFT Stage 2, as appropriate) are required to adhere to the principles for best practice set out in the HM Treasury Green Book, the Capital Investment Manual (Department of Health and Social Care, 1994) and NHS Health Building Note 00-08 - The Efficient Management of Healthcare Estates and Facilities (Department of Health and Social Care, 2014). See references section of this paper for relevant hyperlinks. Where business cases are submitted for approval via a short form process, such as use of the Less than £1m template, the underpinning analysis and justification supporting the preferred option must still demonstrate compliance with these principles for best practice and be made available on request.
- 13.2.2 All capital investment propositions seeking NHS England approval will, as a prerequisite, need to be reconciled to the relevant STP, prioritised for strategic investment and agreed as part of the capital investment and business case 'pipeline' (or equivalent planning and prioritisation process, e.g. Personalised Health & Care 2020 (Using Data and Technology to Transform Outcomes for Patients and Citizens) portfolio, Estates & Technology Transformation Programme).

- 13.2.3 All capital investment propositions in the business case pipeline must explicitly link to, and be consistent with the relevant STP, Strategic Estate Planning at STP-wide and relevant locality levels, and service planning, other strategic drivers relevant to the proposed investment, and extant planning guidance.

### 13.3 Project Initiation Document

- 13.3.1 Once established as a strategic planning priority, as above, all prospective capital investment propositions should complete a Project Initiation Document (PID). A PID is used to articulate the strategic case for change/investment, to establish its relative priority, provide validation of an appropriate affordability envelope, to agree likely sources of capital and revenue funding, to describe the anticipated timescale, and importantly to set out available delivery routes and handling of project development costs.
- 13.3.2 Clear agreement should be reached (and documented in the PID) between the commissioner sponsors, any provider organisations and the NHS property company(ies) as regards which organisations are meeting project development costs and how related risks and liabilities are to be apportioned. Further advice and guidance as regards project development costs and how these should be handled can be obtained on request from the Project Appraisal Unit.
- 13.3.3 A 'Roles and Responsibilities' template is available from the Project Appraisal Unit to assist business case sponsors and their delivery partners in agreeing who should own which inputs to subsequent business case development, associated risks and apportionment of costs. This has been road tested by a number of project sponsors and found to be a helpful tool to establish these principles at the outset.
- 13.3.4 The Project Appraisal Unit can provide advisory support to commissioners as they progress to negotiating and agreeing roles and responsibilities with project delivery partners.
- 13.3.5 It is important to be clear that production of the PID should not be an onerous or costly process. The stakeholders should complete the template with the best information available, recognising that it is only as the project matures that much of the detailed analysis and evidence required to sustain a proper business case will emerge. The detail contained within the PID should be proportionate to the anticipated size and scope of the proposed investment. Any risks and liabilities on which there is any lack of clarity should be monitored as part of the project development process. As more information becomes available the parties to the PID can take this into account and take action accordingly.
- 13.3.6 The PID must be approved by the Regional Director of Finance before business case development is allowed to commence.

- 13.3.7 Where investment propositions are established in accordance with the approach set out above, with an approved PID in place, this will be used to inform capital and revenue planning processes within NHS England, CCGs and the NHS property companies, so that resources can, where appropriate, be provisionally earmarked subject to approved business cases.
- 13.3.8 Further advice and guidance regarding use of the PID can be obtained from the NHS England Project Appraisal Unit.
- 13.3.9 A range of PID templates will be available on the NHS England website under [Business case approval process – capital investment, property, equipment and ICT](#) which reflect the five current types of PID applicable to different types of schemes. Further relevant PIDs are under development:

**Table 3. PID types**

PID Type 1	Clinical Premises
PID Type 2	Combined PID Type 2/Administration Accommodation Business Case Template
PID Type 4	Application for a s256/s257 Capital Grant from NHS England
PID Type 5	Digital Technology Capital
PID Type 6	GP IT Capital
PID Type 7	Equipping Capital (Excluding GP IT and Digital Technology)

- 13.3.10 Where an alternative process is adopted by the national team for agreeing priorities and earmarking capital for investment subject to business case approval, the use of the PID as the vehicle through which agreement to embark on a the business case development process may not apply. For example the Personalised Health & Care 2020 (Using Data and Technology to Transform Outcomes for Patients and Citizens) portfolio, STP capital investment in the provider Trust sector. Where there is any doubt as to whether or not a PID is required, the Project Appraisal Unit can advise.

## 13.4 Post PID Options Appraisal Process

- 13.4.1 For healthcare building projects sponsored by local commissioners in primary and community care settings (most commonly where the construction project is to be led by one of the NHS property companies), a Post PID Option Appraisal (PPOA) can be usefully employed following PID agreement with the aim of confirming that the preferred project proposal is supported by an initial option appraisal in both service and estates terms and that the procurement route is validated as being likely to achieve the best VFM going forward for the sponsor. The time expended on option appraisal

should be proportionate to the scale, risk or complexity of the proposal, and will normally precede the formal OBC options appraisal, but sometimes forms part of it depending on the circumstances. Further advice can be provided by the NHS England Project Appraisal Unit

13.4.2 The purpose of the PPOA is to ensure that when the project proposal is subject to fuller VFM analysis at OBC stage there will be greater confidence that this will support the earlier decision making and that too much effort is not expended on projects that will not succeed. There are two stages to the PPOA:

- Stage 1: Sponsor led Initial Option Appraisal – determination of the relative value for money of all viable service delivery, site options and estates solutions, assessed on the basis of a publicly funded option to determine the preferred service/estates solution (e.g. refurbishment versus new build).
- Stage 2: Procurement Strategy - assessment of all viable procurement options available to the public sector to support the preferred option. NHS England will expect NHSPS (and CHP in LIFT/PPP areas) to work closely together with the project sponsors to describe with confidence how the NHS property companies and, where relevant, LIFT/PPP parties can and should work together to scope and deliver the solution that offers best VFM for patients and taxpayers. This will inform the allocation and commitment of resources and the process to be followed for development of the OBC, and will have important implications for roles (including project management), funding of costs and risks in relation to these, and sponsors need to be mindful of this at PID stage.

13.4.3 Additional advice on the process to be followed for a PPOA can be provided by the Project Appraisal Unit.

## 13.5 Five Case Model

13.5.1 Subsequent business cases must be structured so as to enable assessment and appraisal of their content to be carried out in accordance with the Five Case Model (HM Treasury, 2015) for business case development, i.e.

- Strategic Case - to demonstrate that the proposals are supported by a robust case for change.

- Economic Case – to demonstrate the options appraisal of potential benefits compared to costs, and that value for money has been optimised.
  - Commercial Case – to demonstrate that the proposals and procurement strategy are commercially viable.
  - Financial Case – to demonstrate that the proposals are financially affordable.
  - Management Case – to demonstrate that the proposals can be delivered successfully, and the associated benefits realised and evaluated.
- 13.5.2 Business Cases for buildings and equipment must also ensure that the necessary information dataset in relation to building design solutions and the work up of capital costs is provided so that an informed view can be taken on the compliance with prevailing NHS, Department of Health and Social Care and central Government requirements.
- 13.5.3 The value and importance of the Economic Case (i.e. providing evidence that confirms a robust options appraisal has resulted in the best value for money option being selected) should not be underestimated. Business case assurers will be expected to ensure at all times that this has been properly addressed in line with HM Treasury Green Book requirements. The references at the end of this document include the DHSC economic models that can be used to support options appraisal and provides both a short form and a more detailed tool to support the modelling process.
- 13.5.4 Similarly, it is crucial that the Financial Case demonstrates the preferred option is affordable and therefore viable as a solution to deliver the investment objectives.
- 13.5.5 Variations on the key stages of business case process exist for Private Finance (PF2) and other PPP (e.g. LIFT) schemes, and these should be used as appropriate. The Project Appraisal Unit can advise accordingly.

## 13.6 Strategic Outline Case

- 13.6.1 It is good practice for NHS organisations to produce a Strategic Outline Case (SOC) for significant business cases, for their own governance and assurance purposes, and to ensure that significant, costly work is not carried out at OBC level without ensuring that the strategic case of need has been formally approved by the necessary decision maker/s. The judgement as to when a SOC will add value to the process is one that will be informed by the relative complexity of the investment, level of risk and a number of other variables, and is one that should be properly considered at the outset of the business

case planning process and agreed with the business case assurers. A SOC or equivalent strategic justification prior to commencement of OBC development is a mandatory requirement for all business cases with a whole life cost of greater than £15 million. For many less complex and lower value schemes a PID, or similar strategic justification, (although at a higher level in terms of detail provided than a SOC) may well be regarded by project sponsors as adequate to establish in principle the scheme's fundamental viability as a prerequisite to proceeding to OBC.

- 13.6.2 Further advice and guidance regarding use of the SOC can be obtained from the NHS England Project Appraisal Unit.

## **13.7 Programme Business Case**

13.7.1 Where the underpinning strategy for significant capital investment business cases is likely to give rise to a number of linked but incremental business cases over a period of time, and the overall investment portfolio is more in the nature of a programme rather than a standalone project, then use of a Programme Business Case (PBC) is appropriate. This enables the approving body to approve a PBC at the outset, followed by discreet Outline Business Cases and Full Business Cases consistent with the incremental discrete components of the overall programme.

- 13.7.2 Further advice and guidance regarding use of the PBC can be obtained from the NHS England Project Appraisal Unit.

## **13.8 Business Cases between £1 million and £3 million in value**

13.8.1 Business Case requirements for investments in this value range will vary depending on the complexity of the proposition. In many cases a Business Justification Case will be sufficient, and a template is available from the Project Appraisal Unit. This is closely modelled on the HM Treasury Five Case Model template and provides a means of articulating the investment proposals in a single submission following approval of the PID. It should be noted that this approach will not be sufficient in all cases, and there will be circumstances when an alternative approach is more appropriate. The Project Appraisal Unit can provide advice and guidance to support project sponsors in deciding on the appropriate approach for individual projects.

## **13.9 Business Cases >£3 million**

13.9.1 Business cases at a value of greater than £3 million should be developed and submitted using the Outline Business Case and Full Business Case approach in accordance with HM Treasury Green Book and Five Case Model requirements. See paragraphs 13.6 and 13.7, above, where the requirements for either a Strategic Outline

Case or a Programme Business Case prior to Outline Business Case stage are set out.

## 13.10 NHS England, DHSC and Cabinet Office Spend approval

13.10.1 Elsewhere in this document the requirement for spend approval by NHS England, DHSC and Cabinet Office is discussed. This relates to the arrangements for securing procurement and spend approval in relation to the goods and services set out in the capital investment business case. Procurement and spend approval requirements are set out in the NHS England Standing Financial Instructions, and as discussed in relation to Information & Communications Technology (see section 11) and Administrative Premises (see paragraph 13.11), the Cabinet Office spending controls apply to business cases above a certain value. Business case authors should seek advice from NHS England Commercial who can clarify procurement and spend control requirements in relation to specific proposed investments, which should be described in the capital investment business case under the 'Commercial Case' section.

## 13.11 Administrative Premises

13.11.1 The NHS England SFIs require that all administrative property requirements should be secured through NHS Property Services Limited or Community Health Partnerships Limited (in which cases the Government Property Unit National Property Controls<sup>6</sup> do not apply to the business case), with those companies taking the superior interest in the land/buildings in question and granting an occupational lease to NHS England. If for any exceptional reason agreed by or on behalf of the Board, a new administrative property requirement is not intended to be provided by either of these organisations, e.g. where DHSC would be NHS England's immediate landlord, then the National Property Controls will apply.

13.11.2 All business cases for NHS England administrative facilities should be developed by the Corporate Estates Team in the Transformation and Corporate Operations Directorate, working closely with the sponsoring NHS England Director and their team.

13.11.3 The requirement for administrative facilities business case approval is mandatory for all new leases, and to underpin decisions not to exercise lease break options and to enter into lease extensions. These business cases will require endorsement by and the agreement of the Director of Transformation & Corporate Operations to confirm that they are in line with NHS England corporate estate strategy, and that the budgetary implications are sustainable, prior to

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<sup>6</sup> Set out in the Cabinet Office efficiency controls at <https://www.gov.uk/government/publications/cabinet-office-controls>

submission for consideration of approval by the Chief Financial Officer, Investment Committee or the Board as appropriate.

- 13.11.4 The principles set out in the associated Cabinet Office spending controls need to inform all business cases for administrative premises, which need to be approved as a precondition to all new leases. These can be viewed at:

<https://www.gov.uk/government/publications/cabinet-office-controls>

They apply irrespective of whether or not formal Department of Health and Social Care and Cabinet Office spend approval applies to the proposal. Business cases that do not comply with these controls are unlikely to sustain approval.

- 13.11.5 Corporate Estates and the Project Appraisal Unit can provide advice on the form of business case for administrative premises development, and it is strongly recommended that such advice is sought early on.

## 13.12 Information & Communications Technology

- 13.12.1 Business cases for ICT are required to be developed in accordance with the requirements of section 11 of this guidance;
- 13.12.2 Some of the requirements for ICT business case content can be significantly different from business cases for buildings and clinical equipment, although the basic principles still apply. It is strongly recommended that sponsors take advice from the Project Appraisal Unit early on in the process to ensure that content and approach are agreed well ahead of approval submissions.
- 13.12.3 Arrangements for the approval of national digital business cases for investment under the Personalised Health & Care 2020 (Using Data and Technology to Transform Outcomes for Patients and Citizens) portfolio have been set in place by NHS England, NHS Digital and DHSC. Investments in this programme will be considered for approval at the Technology & Digital Investment Board (TDIB), which is attended by all the relevant NHS stakeholder organisations in the programme, and is chaired by DHSC. The NHS England Board has delegated authority to the Chief Financial Officer to determine approval recommendations on its behalf in relation to component investments under this portfolio, which will be taken to meetings of the TDIB for consideration of approval.

## 13.13 Category 2, 3 and 4 Equipment

- 13.13.1 Where a business case proposal is for healthcare or administrative property to be provided by either of the NHS property companies, it

is important to be aware that all categories of equipment except Category 1 will need to be funded by the sponsoring commissioner. In nearly all cases this translates into a requirement for NHS England capital funding to Category 2, 3 and 4 equipment,

- Group 1: Items which are supplied and fixed under the terms of a building/engineering contract and funded within the works cost. These are generally large items of plant and equipment which are permanently wired/installed.
- Group 2: Items which have implications in respect of space/construction/engineering services and are installed under the terms of a building/engineering contract, but are purchased by the NHS client under direct arrangements and funded out of the separate equipment budget, along with Group 3 items.
- Group 3: Items which have implications in respect of space and/or construction/engineering services and are purchased and delivered/installed directly by the NHS client e.g . furniture, small refrigerators. They are funded from the separate equipment budget.
- Group 4: Items which may have storage implications but otherwise have no impact on space or engineering services and are purchased by the client from normal revenue budgets, e.g . surgical instruments, desktop equipment.

13.13.2 This needs to be reflected in the PID and subsequent business case submissions, and appropriate arrangements should be made to ensure the necessary NHS England capital funding is available.

## **13.14 Learning Disability Transformation – Capital Investment**

13.14.1 NHS England is leading a programme of capital investment to support the Learning Disability (LD) service transformation programme. This involves new capital investment prioritised from allocated resources and recycling of value released from capital assets owned by local authorities and the social care housing sector over which NHS England holds a legal charge to secure historic NHS grant funding.

13.14.2 Business cases for capital investment in LD services should be developed by LD commissioners and their social care partner organisations in accordance with the NHS England guidance which is available through the Project Appraisal Unit. They should be prioritised and agreed with the relevant NHS England local DCO Office and Regional Team, and need to align to the priorities of the NHS England LD Transforming Care Programme (TCP) and the relevant TCP planning footprint. The local DCO office and Regional Team LD Transformation and Finance Leads should provide input in liaison with their counterparts in the Regional Teams. This local DCO

office function should be carried out also in close liaison with the relevant LD Transformation Boards to ensure that capital investment proposals are supported within and driven by the Transformation Plan for a particular local geography.

- 13.14.3 Oversight of LD capital investment business case development and the related assurance process will be led by the relevant NHS England Regional Team LD Transformation and Finance leads, with input as necessary on a case by case basis from the Project Appraisal Unit and NHS England Legal.
- 13.14.4 All business cases for capital investment in LD services will require recommendation by the Regional Director of Finance, assurance by the Project Appraisal Unit and approval by the Chief Financial Officer.
- 13.14.5 The NHS England interest in all agreed capital investments in infrastructure to support the provision of LD services will be appropriately secured in line with the requirements of the relevant grant making powers available to NHS England under Sections 256 and 257 of the NHS Act 2006.
- 13.14.6 Proforma transaction document templates are available from the Project Appraisal Unit and should be used by officers of NHS England at the PID stage and then throughout the subsequent stages of project development to inform discussions with local authorities and their providers, and their subsequent capital investment business cases.
- 13.14.7 These templates provide standard terms for transaction of capital investments into LD services that have been agreed with NHS England Legal in accordance with prevailing guidance. It is the assumption that all such transactions will observe and be bound by these terms. Further advice should be sought from NHS England Legal who would need to agree by exception any changes to these standard terms.

## **13.15 Estates and Technology Transformation Fund Programme**

- 13.15.1 The Estates and Technology Fund (ETTF) Programme is a programme of investment aimed at accelerating the development of infrastructure to enable the improvement and expansion of joined up out of hospital care for patients. The programme is led by an NHS England national team, with Programme Management units in each of the Regional Teams. Capital investment business cases arising from the programme should, once a proposed investment has been prioritised and funding earmarked, follow the process for business case development set out in this guidance paper. The Project Appraisal Unit can provide further advice as regards ETTF business cases.

- 13.15.2 A guidance paper and associated MS PowerPoint presentation are available from the Project Appraisal Unit to support commissioners in better understanding the various business case processes and funding flows, and determining the formal character of schemes progressing under the ETTF Programme.

### **13.16 Sustainability and Transformation Partnership Capital Investment Programme**

- 13.16.1 At the time of publishing this refresh to the guidance, a major national programme of capital investment is underway to support Sustainability and Transformation Partnerships (STP) in the process of service transformation.
- 13.16.2 Where an STP has had capital earmarked for investment subject to business case approval, the arrangements for business case form and content will be agreed by national STP capital investment leads at NHS England and NHS Improvement.
- 13.16.3 STPs and their component organisations can seek advice directly from their Project Appraisal Unit regional leads (see Table 1) as regards business case requirements for individual STP capital investment projects and programmes, or from their regional NHS England and NHS Improvement Finance contacts.

### **13.17 Level Two & Three Co-Commissioning Clinical Commissioning Groups**

- 13.17.1 Level Two and Level Three Co-Commissioning Clinical Commissioning Groups will be required to confirm in writing their joint approval (with the local DCO office) for the business cases for any capital grants made to General Practitioners strictly in accordance with the National Health Service (General Medical Services – Premises Costs) Directions 2013 (as revised from time to time), which will be approved and transacted by the relevant local DCO office under their delegated capital investment powers related to primary care commissioning.

### **13.18 Commissioner support for investment by others**

- 13.18.1 Transactions that require NHS England to enter into a legally enforceable commissioning commitment to provide any transition or transaction support from centrally controlled NHS England funds and/or to underpin, recognise or confirm support for the revenue implications of a third party (e.g. NHS Property Services Ltd, Community Health Partnerships Ltd or a provider trust) investing capital, or entering into a lease commitment require such commitment to be approved by the Board, Investment Committee or Chief Financial Officer in accordance with the SFIs.

- 13.18.2 Approval to such legally enforceable expressions of commissioner support will be sought via submission of a recommendation by the Regional Director of Finance to the Chief Financial Officer. This should be informed by the relevant capital investment business case related to the transaction. The submission will be assured by the Project Appraisal Unit prior to consideration of approval.

## 13.19 Service Change and Reconfiguration

- 13.19.1 *Planning, Assuring and Delivering Service Change for Patients (NHS England, March 2018)*. A good practice guide for commissioners on the NHS England assurance process for major service changes and reconfiguration, makes it clear that proposals for service change and reconfiguration must demonstrate compliance with the five key tests for service reconfiguration:

- Strong public and patient engagement.
- Consistency with current and prospective need for patient choice.
- Clear clinical evidence base.
- Support for proposals from commissioners.
- In any proposal including plans to significantly reduce hospital bed numbers NHS England will expect commissioners to be able to evidence that they can meet one of the following three conditions:
  - Demonstrate that sufficient alternative provision, such as increased GP or community services, is being put in place alongside or ahead of bed closures, and that the new workforce will be there to deliver it.
  - Show that specific new treatments or therapies, such as new anti-coagulation drugs used to treat strokes, will reduce specific categories of admissions.
  - Where a hospital has been using beds less efficiently than the national average, that it has a credible plan to improve performance without affecting patient care (for example in line with the Getting it Right First Time programme).

- 13.19.2 The application of these tests will be agreed as part of an assurance process that will be proportionate to the proposals in question. Many service change and reconfiguration proposals will have capital investment implications, and so it is important that those involved in submitting service change and reconfiguration business cases (in accordance with the guidance referenced at 13.19.1, above) ensure that capital investment requirements are appropriately reflected in those proposals, and that capital investment business cases that

follow the approval of those proposals follow the process set out in this guidance and related guidance provided by NHS Improvement.

- 13.19.3 Set out in paragraphs 13.19.4–13.19.19 is an extract of information from the *Planning, Assuring and Delivering Service Change for Patients* guidance relevant to capital investment business case process, together with additional contextual guidance.

#### *Pre-Consultation Business Case*

- 13.19.4 NHS England assures service change proposals prior to them launching public consultation, through review and approval of a Pre-Consultation Business Case (PCBC). Most assurance of service change proposals is undertaken at a regional level, however for some proposals assurance and decision making will be undertaken by the Investment Committee (IC) or the Chief Financial Officer (CFO) of NHS England. The level of assurance for service change including reconfiguration is determined by the criteria below:

- The NHS England Investment Committee should review the assurance conclusions and take decisions for all schemes where one of the following conditions applies:
  - Requires transition or transaction support of more than £20m from NHS England funds (not including CCG funds).
  - The total turnover of the affected services (for all sites impacted by the transition, at current prices) is above £500m in any one year.
  - The likely capital value of the scheme is above £100m (gross capital value of the scheme, even if the actual value is lower because it is funded through capital receipts).
  - The proposed service change impacts on any NHS Trust or NHS Foundation Trust that is in tier 4 of NHS Improvement's Single Oversight Framework<sup>7</sup>.
- The NHS England Chief Financial Officer should review the assurance conclusions and take decisions for all schemes where one of the following conditions applies:
  - Impact on any of the distressed health economies<sup>8</sup> as currently or subsequently defined.

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<sup>7</sup> <https://improvement.nhs.uk/resources/single-oversight-framework-segmentation/>

<sup>8</sup> In May 2016 this was defined to mean the three success regimes, however this will continue to be re-defined as required

- Requires transition or transaction support from NHS England funds (not including CCG funds).
- The total turnover of the affected services (for all sites impacted by the transition, at current prices) is above £350m in any one year.
- The likely capital value of the scheme is above £50m (gross capital value of the scheme, even if the actual value is lower because it is funded through capital receipts).
- All other schemes to be determined by the relevant Regional Director.

13.19.5 Effective assurance is required to secure consistency across the NHS commissioning system in respect of:

- The government and NHS England's key tests that should underpin service change proposals (see 13.19.1, above).
- The strength of pre consultation business cases, clinical evidence and public involvement.
- Proposals having regard to relevant national guidance and complying with legislation.
- The programme management that underpins the planning and delivery of schemes.
- Deliverability on the ground and affordability in capital and revenue terms.

13.19.6 For each option to be shared with the public, consideration of the financial proposal in terms of both capital and revenue and its sustainability should be made in conjunction with NHS England and NHS Improvement prior to launching consultation. It is essential that only those options that are sustainable in service, economic and financial terms are offered publicly. No service change option should be exposed for public engagement/consultation unless prior to launch there is a high degree of confidence that it would be capable of being delivered as proposed, that it does not imply an unsustainable level of capital expenditure and/or projected spend profiles that cannot be reconciled to available resources and will not be affordable in revenue terms. All options must be affordable within commissioner revenue allocations and provider revenue financial targets.

13.19.7 Service change schemes which require capital financing will require the explicit support of NHS England and NHS Improvement in writing and, where appropriate, discussion with the Department of Health

and Social Care before public consultation on options requiring capital commences.

13.19.8 To demonstrate this, the PCBC should set out for all options going to consultation an assessment of capital (if required for the scheme) affordability for each option which includes:

- A high level source and application of capital funds, to demonstrate capital costs and how these are expected to be funded. It should be noted that every effort should be made to generate local capital funding including land disposals or internally generated capital and initial assessments of this should be included.
- Indicative capital costs recorded using the Capital Investment Manual (CIM) cost forms and recognisable benchmarks and which assume compliance with all applicable design, technical, building and space standards and known site constraints, and key adjacencies should be identified.
- Indicative designs that demonstrably reconcile to up-to-date estates strategies at site, provider and STP levels.

13.19.9 All options requiring capital will be assured prior to consultation by NHS Improvement and NHS England, and, where appropriate, through them the Department of Health and Social Care to ensure each option is sustainable in service and revenue and capital affordability terms, that the scheme size is proportionate and that it is capable of meeting applicable VFM and return on investment criteria.

13.19.10 Schemes requiring larger amounts of capital (i.e. over £100m) will be required to provide more detail and be subject to higher levels of scrutiny prior to going out to consultation.

13.19.11 Following this assurance the following letters of support will be required prior to consultation being launched:

- Where all options require capital of less than £30m, a letter of support from the NHS Improvement Regional Finance Director.
- Where all options require capital of between £30m and £100m, a letter of support from the NHS Improvement Chief Finance Officer.
- Where options require capital above £100m the scheme will be considered by the NHS Improvement Resources Committee and a letter of support from the NHS Improvement Chief Finance Officer provided.

- 13.19.12 At this early stage, before PCBC approval, if service change options will require capital, it is helpful to take account of the requirements that individual providers' capital investment business cases will need to satisfy if they are to be able to support the formal proposals. These are set out in NHS Improvement's guidance *Capital Regime, Investment and Property Business Case Approval for NHS Trusts and Foundation Trusts*.
- 13.19.13 In preparing the PCBC, advice/input should be sought from NHS Improvement and NHS England (and through them, the Department of Health and Social Care and HM Treasury if appropriate) so that they can as far as possible underpin subsequent provider business case processes and NHS Improvement's subsequent assurance of them. The PCBC can form the starting point for a Strategic Outline Case (SOC) as required by NHS Improvement where necessary.

#### *Decision Making Business Case*

- 13.19.14 Once a PCBC has secured approval from the appropriate authority, and the requisite letters of support have been provided, the consultation will take place. The outcome of consultation will inform development of the Decision Making Business Case (DMBC). The DMBC should ensure that the final proposal is sustainable in service, economic and financial terms and can be delivered within the planned for capital spend, and show how views captured by consultation were taken into account. It can be built from the PCBC and work with stakeholders, and will further inform the development of the SOC. For more complex schemes it may be assured by NHS England before decision making, and should include how views captured by consultation were taken into account.

#### *Strategic Outline Case*

- 13.19.15 Once a decision has been made as to the preferred option following consultation, organisations can develop Strategic Outline Cases (SOC) for capital investment based on this preferred option. Before individual organisations incur major cost on any capital investment scheme to support service change and reconfiguration they should ensure that they have agreement with NHS England and NHS Improvement, including written confirmation in principle, as to the availability, level and source(s) of funding for the scheme.
- 13.19.16 Until approval for the SOC is in place, organisations should not incur material costs progressing to the next formal stages of the capital investment scheme (Outline Business Case and Full Business Case), the implementation phase.
- 13.19.17 The NHS England Project Appraisal Unit can provide advice and support in relation to assurance of the proposed capital investment

enablers to service change and reconfiguration at all stages of the process, from PCBC through to the completion of the FBC. For PCBC submissions requiring NHS England approval, the Project Appraisal Unit is available to support the regional and national processes of assurance and approval decision making.

13.19.18 It should be noted that approval by NHS England to either PCBC or DMBC submissions that include capital investment as a requirement to enable delivery of some or all of the options is not approval to the related capital investment business case/s that will follow once the consultation process is complete and the PCBC and DMBC have been approved. The formal capital investment business case will commence following DMBC approval and confirmation of available capital investment funds.

13.19.19 It is recommended that there is early engagement with the NHS England Project Appraisal Unit at an early stage in the process of planning for service change and reconfiguration in order to ensure that capital investment assurance is undertaken, as appropriate, as an integral part of the overall process.

## **13.20 Gateway Review**

13.20.1 It should be noted that current Department of Health and Social Care guidelines regarding the need for Gateway Reviews remain in place. Gateway Reviews are mandatory for all high risk, and for some medium risk projects and programmes. A risk potential assessment (RPA) should be undertaken for all appropriate projects and programmes, and where one is assessed as high or medium risk, the NHS organisation concerned should make arrangements for the appropriate review to be carried out accordingly.

## **13.21 Integrated Assurance**

13.21.1 Flowing through the process of Business Case development, assurance and approval is the concept of 'integrated assurance'. The appropriate Business Case development resources of NHS England local DCO offices, Sustainability & Transformation Partnerships, Regional and National Teams, Commissioning Support Units, CSUTT and Clinical Commissioning Groups will be supported and enabled in their work by strategic input where appropriate from the NHS England Project Appraisal Unit during the course of development and assurance, and prior to the formal Business Case submission to the National Team. This approach is designed to support the 'right first time' and 'once only' guiding principles. and is graphically demonstrated in the flowchart at Appendix 1, as discussed below:

## **Locally Promoted**

13.21.2 Approvable Business Cases will be locally promoted by commissioners, driven by commissioning plans and clinical strategies that are consistent with the relevant Sustainability and Transformation Partnership, allied strategic estate strategies and an objective assessment of local priorities and affordability. This will involve:

- Establishing through a PID the case for change; consistency with clinical commissioning plans and aligned Strategic Estates Plans; relative priority; likely approval value; and affordability envelope.
- Working with all relevant delivery partners (e.g. Strategic Estates Planning (SEP) team, NHS property companies, CSUs) to establish an approvable Business Case.
- Supporting the Regional Director of Finance in taking formal ownership of the Business case and championing it through NHS England's formal approval process.

## **Regionally Owned and Championed**

13.21.3 Approvable Business Cases will ultimately be owned and championed by the Regional Teams. This will involve Regional Teams in:

- Agreeing capital priorities to populate a locally informed, Sustainability and Transformation Partnership aligned, regionally valid capital investment and business case 'pipeline'.
- Supporting and endorsing PIDs and the consequent engagement with the Strategic Estates Planning team and NHS property companies to start working up the necessary Business Cases.
- Maintaining strategic oversight of the Sustainability and Transformation Partnership and locally led business case development process for regionally recognised priority schemes.
- Making formal recommendations for approval decisions through the relevant NHS England governance arrangements.

## **Nationally Supported**

13.21.4 The development of Business Cases will be nationally supported through a process of regular collaborative support, advice, guidance, review, validation and approval. This will involve:

- The NHS England Project Appraisal Unit being available to Business Case development and delivery partners, as strategically needed, to ensure that approval critical issues are identified and pre-empted in Business Cases whilst in the course of preparation.
- National and Regional teams working collaboratively with STPs to review schemes in procurement, timelines, forward looking pipeline and resource planning.
- Provision of a Project Appraisal Unit summary report to complement the Regional Director of Finance's formal approval submission.
- Provision of informed advice to the relevant NHS England Board members responsible for confirming final NHS England approval.

13.21.5 For the purposes of CSU Business Cases, this approach is modified to Business Cases being locally promoted by the CSU, owned and championed by the CSUTT, and then recommended for NHS England approval via the Project Appraisal Unit.

13.21.6 Where approving CSU own account Business Cases for capital investment under their delegated limit of up to £1 million for schemes within their agreed budgets, CSUs will need to agree strategic prioritisation and subsequent business cases for capital investment with the NHS England Commissioning Support Unit Transition Team.

13.21.7 The NHS England Project Appraisal Unit will work to support CSUs and the CSUTT in this process. It is of course assumed that, where a CSU Business Case is in response to the direct commissioning requirements of NHS England, the local Director of Commissioning Operations office, relevant STP and Regional Teams will, as appropriate, be involved in having input to and confirming support to the Business Case.

13.21.8 The integrated assurance process and regular engagement with the Project Appraisal Unit should ensure that realistic and appropriate timelines are understood and reflected in project plans.

13.21.9 The level of formal assurance and scrutiny that the Project Appraisal Unit will carry out to inform the final approval decision on any Business Case, and the time that this will take to complete, will very much depend upon the quality of the Business Case and of the level of engagement pre submission that has taken place with the Project Appraisal Unit.

13.21.10 The time taken to secure a formal approval decision will also be influenced by the approval threshold applicable to individual Business Cases. Where Investment Committee and NHS England

Board approvals are required there will be a requirement to align the submission of the formal approval papers with the cycle of Board and Committee meetings, and for these to be cleared in advance with the Chief Financial Officer prior to formal submission to the Investment Committee / Board.

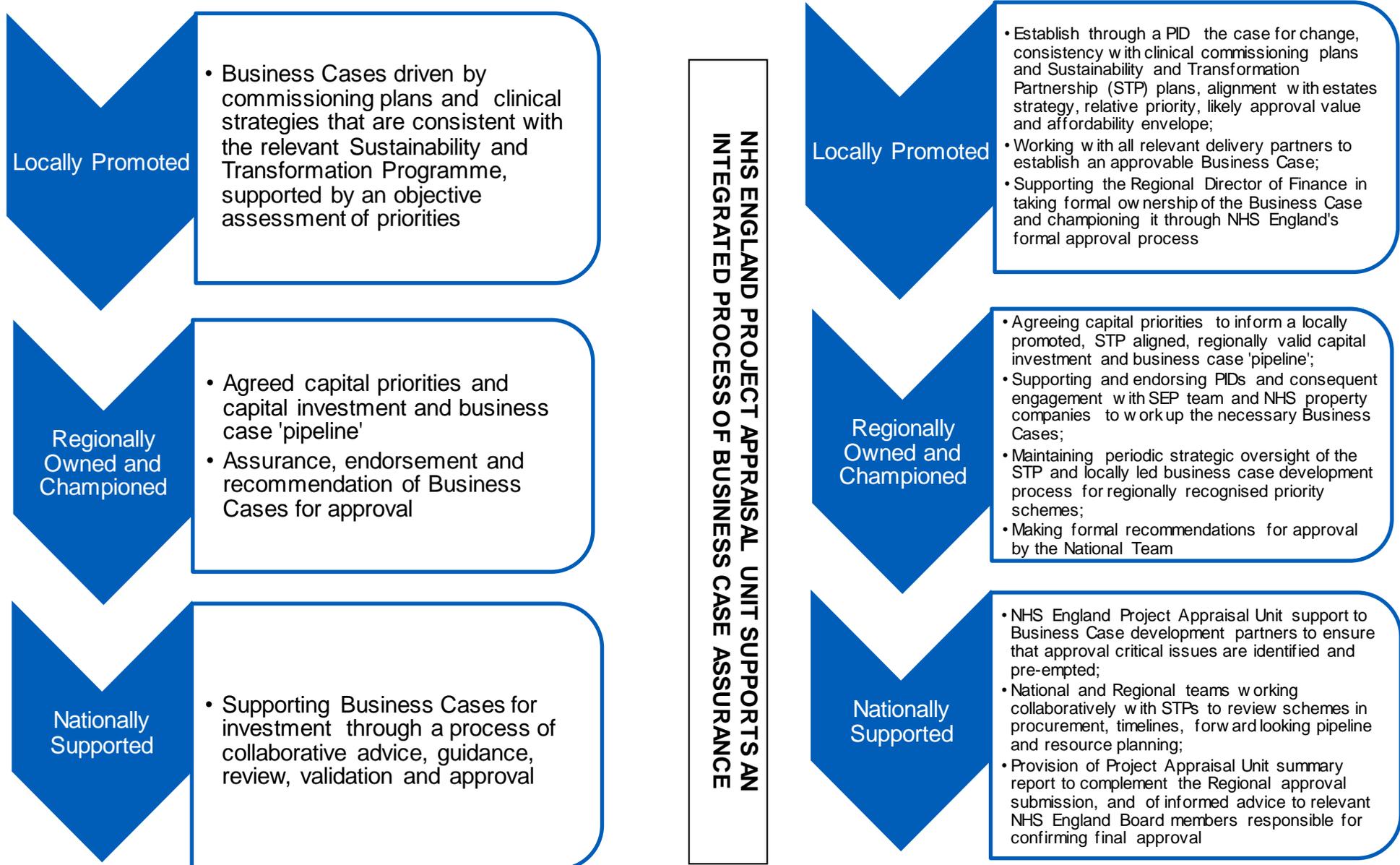
- 13.21.11 For projects and programmes requiring external approval (that is, above and beyond NHS England Board approval), it should be noted that additional time will be required for the necessary submissions to be made and considered, and then for the relevant approval decisions to be determined.

## **13.22 Business Case Checklist**

- 13.22.1 All Business Case submissions of a value greater than £3 million will need to be accompanied by completed Business Case Checklists. A Five Case Model Consolidated Business Case Checklist is available from the Project Appraisal Unit, which supports the 'right first time' guiding principle that NHS England is committed to. Queries on the mandatory content of Business Cases to ensure compliance with best practice principles can be addressed to the Project Appraisal Unit, contact details of which are set out at Table 1, above.

# APPENDIX 1. INTEGRATED ASSURANCE FLOWCHART

## NHS ENGLAND BUSINESS CASE DEVELOPMENT, ASSURANCE & APPROVAL – AN INTEGRATED APPROACH



## References (Correct as of June 2018)

**NHS Capital Investment Manual, Department of Health and Social Care (1994) – can be accessed online at:**

[http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4119896](http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4119896)

**NHS Health Building Note 00-08 - The Efficient Management of Healthcare Estates and Facilities (Department of Health and Social Care, 2014) – can be accessed online at:**

<https://www.gov.uk/government/publications/the-efficient-management-of-healthcare-estates-and-facilities-health-building-note-00-08>

**HM Treasury Five Case Model – can be accessed online at:**

<https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

**HM Treasury Green Book – can be accessed online at:**

<https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

**NHS Improvement Single Oversight Framework – can be accessed online at:**

<https://improvement.nhs.uk/resources/single-oversight-framework-segmentation/>

**Cabinet Office Controls – can be accessed online at:**

<https://www.gov.uk/government/publications/cabinet-office-controls>

**NHS England Business Case Approval Process – can be accessed online at:**

<https://www.england.nhs.uk/resources/bus-case/>