



# **Annex B: Scheme of Delegation – NHS Improvement Functions**

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## 1 Functions and matters reserved to the Board

Reference:	Reserved To:	Functions:
<b>Strategy and Management</b>		
	Board	The establishment and maintenance of NHS Improvement's strategic direction – reviewing, contributing to and approving NHS Improvement's vision, mission and values.
	Board	The approval of NHS Improvement's corporate and business plans, including the distribution of NHS Improvement's financial allocation as set out in the annual business plan and any subsequent material change to this.
	Board	The approval of NHS Improvement's risk management strategy/framework, including the determination of Monitor's risk appetite.
	Board	The approval of all of NHS Improvement's significant regulatory policies prior to consultation with stakeholders and any material amendments following responses received in response to consultation.
	Board	The review of performance in light of NHS Improvement's strategy, objectives, business plans and budgets with a view to ensuring that any necessary corrective action is taken.
	Board	The continuous appraisal of the affairs and effective management of NHS Improvement by means of the receipt of reports from committees and officers, including the review of the top level/strategic risks facing NHS Improvement and their mitigations.
<b>Operational decision-making</b>		
<i>See related entries in later sections</i>	Board	The determination of any operational decision considered to be policy-determining (i.e. having strategic implications) and/or very high risk.
For NHS TDA, see direction 6(k) of the TDA Directions	Board	Approval of (or, in the case of non-financially distressed FTs, providing an opinion on) trust business cases for capital investment and property transactions with a value in excess of £50m
Section 35 of the NHS Act 2006 (Monitor)	Board	Decisions on authorisation of an NHS trust as an FT, where decision is marginal
Section 65D of the NHS Act 2006 (Monitor) Direction 7 of the TDA Directions (NHS TDA)	Board	Decision on whether to appoint a trust special administrator for an FT or to recommend to Secretary of State that such an administrator is appointed for an NHS trust
Section 73 of the 2012 Act (Monitor)	Board	Agreeing proposals for regulatory market studies
Section 116 of the 2012 Act (Monitor)	Board	Decision to publish national tariff
Section 118 of the 2012 Act (Monitor)	Board	Approval of national tariff proposals for consultation

Classification: Official

Reference:	Reserved To:	Functions:
Paragraph 5 of Schedule 11 to the 2012 Act (Monitor)	Board	Decision to impose a financial penalty

Organisation and internal controls

	Board	The approval of NHS Improvement's high-level organisational design and control structure.
	Board	The approval of any significant change to the level and nature of insurance cover held by NHS Improvement.
	Board	The approval of significant corporate policies.
	Board	The approval of all proposed expenditure above £5 million.
	Board	The approval of the instigation or defence of legal proceedings.
	Board	The approval of the opening or closing of any bank account.*
	Board	The approval of audit arrangements and the receipt of reports from the audit and risk assurance committee meetings with a view to taking any appropriate action.*
- Paragraphs 19 and 21 of Schedule 8 to the 2012 Act (Monitor) - Paragraphs 3 and 15(3) of Schedule 15 to the NHS Act 2006, regulations 14 and 15 of SI 2012 no 922, and direction 8(b) of the TDA Directions (NHS TDA)	Board	To consider and approve NHS Improvement's statutory annual report and accounts.* In relation to NHS TDA, ensure annual report is presented at a public meeting within 30 days
Paragraph 7 of Schedule 8 to the 2012 Act (Monitor) Paragraph 3 of Schedule 6 to the NHS Act 2006 (NHS TDA)	Board	The determination of the remuneration policy for Executive Members of the Board, subject to cross-government controls.**
Section 50 of the NHS Act 2006	Board	Determining if fees should be payable by FTs for maintaining FT register

\* Indicates the matter is the responsibility of the Audit and Risk Committee, with final decisions taken by the Board as a whole.

\*\* Indicates the matters is the responsibility of the Strategic HR, Nominations and Remuneration Committee, with final decisions taken by the Board as a whole

Governance and appointments

Paragraph 2(1) of Schedule 8 to the 2012 Act (Monitor)	Chair and Non-Executive Members	Appointment of chief executive and executive members of Monitor (subject in the case of the chief executive to the consent of the Secretary of State)
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Classification: Official

Reference:	Reserved To:	Functions:
Paragraphs 10 and 11(2) of Schedule 8 to the 2012 Act (Monitor's procedure and exercise of functions) Regulation 11 and 12 of SI 2012 no 222 (NHS TDA standing orders and arrangements for exercise of functions)	Board	The approval of NHS Improvement's rules of procedure, including: <ul style="list-style-type: none"> <li>arrangements for the exercise of functions, including a scheme of delegation and schedule of matters reserved for Board decision; and</li> <li>standing financial instructions (paragraph 10 of Schedule 8 to the 2012 Act and SI 2012 no. 922),</li> </ul> The approval of any variation or amendment to these.
Paragraph 10(1) of Schedule 8 to the 2012 Act (Monitor) Regulation 7 of SI 2012 no 922 (NHS TDA)	Board	Appointment of Non-Executive Member to be vice/deputy chair
Paragraph 9 of Schedule 8 to the 2012 Act (Monitor) Regulations 7, 11 and 12(3) of SI 2012 no 922 (NHS TDA)	Board	The establishment of formal committees, agreeing terms of reference and membership thereof
	Board	The receipt of reports detailing the decisions and recommendations made by NHS Improvement's formal committees (as appropriate)
Rules of Procedure, rule 5.1.7 Public Bodies Admission to Meetings Act 1960 (NHS TDA)		Ensuring board meetings held in public, in accordance with the requirements of the 1960 Act (NHS TDA) Decisions to exclude the public and conduct its business in private
Rules of Procedure, rule 5.10.2	Board	The ratification of decisions taken by the chair pursuant to the exercise of emergency powers.
	Board	The evaluation of the performance of the Board at least once a year, including a review of NHS Improvement's overall governance arrangements
	Board	Final decision to approve recommendations to the Secretary of State for Health and Social Care with regard to changes to the structure, size and composition of the Board (Audit and Risk Assurance Committee to consider recommendations)
	Board	The appointment of the senior independent director
	Board	The appointment of NHS Improvement's principal professional advisers

Classification: Official

Reference:	Reserved To:	Functions:
International Development Act 2002 – Monitor and NHS TDA		
Section 9 and Schedule 1	Board	Exercising the power, as a relevant public body, to make arrangements for the purposes of furthering sustainable development in countries outside the United Kingdom; improving the welfare of the population of one or more such countries, or alleviating the effects of natural or man-made disaster or other emergency on the population of one or more such countries

## 2 Scheme of Delegation - Functions (general and corporate)

Reference:	Delegated To:	Functions:
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### NHS Act 2006 (NHS TDA functions)

Section 2	National Directors	Do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any function conferred on Secretary of State by the Act and exercisable by NHS TDA by virtue of directions
Paragraph 3 of Schedule 6	National Directors	Appoint NHS TDA staff (subject to HR and finance policies and internal controls)

### 2012 Act (Monitor functions but \* indicates also NHS TDA function)

Paragraph 6 of Schedule 8	Chief People Officer	Make payment of remuneration and expenses to Non-Executive Members
Paragraph 7 of Schedule 8	National Directors	Appoint Monitor staff (subject to HR and finance policies and internal controls)
Paragraph 12 of Schedule 8	National Directors	Make arrangements for persons to assist Monitor in the exercise of its functions
Paragraph 14 of Schedule 8	National Directors	Acquire, compile and keep information about matters relating to the exercise of Monitor's functions
Paragraph 15 of Schedule 8	National Directors	Do anything which appears to be necessary or expedient for the purposes of, or in connection with, Monitor's functions
Paragraph 21 of Schedule 8	Chief Financial Officer	Prepare and submit Monitor's annual report (subject to Board approval)
Paragraph 21(4) of Schedule 8	National Directors	Provide Secretary of State with other reports and information (on Monitor's functions and on FTs)
Paragraph 22 of Schedule 8	Chief Financial Officer	Make arrangements for responding in writing to recommendations about Monitor's functions made by Parliamentary committees
Section 67	Chief Financial Officer	Make arrangements to comply with Monitor's duties as regards conflicts between functions Publish statements on resolution of conflicts between Monitor's duties Include statement of steps taken to avoid/resolve conflicts within section 67 in annual report
Section 68	National Directors	Ensure compliance with duty to review exercise of Monitor's functions and secure that in exercising those functions, Monitor does not impose or maintain unnecessary burdens
	Chief Financial Officer	Make arrangements to comply with Monitor's duty to review regulatory burdens Publish and revise annual statements on what Monitor has done pursuant to this duty
Section 69	National Directors	Ensure compliance with duty to carry out impact assessments (and consult) on proposals falling within section 69(1)
	Chief Financial Officer	Make arrangements to ensure compliance (e.g. central guidance)

## Classification: Official

		Include list of impact assessments and decisions taken in annual report
Section 109	Chief Financial Officer	Include information on discretionary requirement imposed and enforcement undertakings accepted (in relation to FTs and other licence holders) in the annual report
Section 255*	Chief Executive Chief Operating Officer Chief Financial Officer Director of Pricing and Costing Director of Data & Analytics	Request NHS Digital to establish information systems (both Monitor “mandatory requests” and NHS TDA requests)

### NHS TDA Regulations and Directions (NHS TDA functions)

Regulation 14 of SI 2012 no 922	Chief Financial Officer	Make arrangements to comply with NHS TDA’s duty to provide reports and other information to Secretary of State
Direction 2(1)	National Directors	Work collaboratively with Monitor under single leadership and operating model, including support work, to ensure improvement in the quality of care, patient safety and financial sustainability across the health service
Direction 8(b) and regulation 14 of SI 2012 no 922	Chief Financial Officer	Prepare NHS TDA’s annual report of its activities in each financial year (subject to Board approval) and provide a copy to the Secretary of State
Direction 8(c)	National Directors	Provide such information to the Secretary of State as the Secretary of State may require

### Local Authority Social Services and NHS Complaints (England) Regulations 2009 (NHS TDA functions)

Regulation 3	Chief Commercial Officer Chief People Officer	Making arrangements for handling and consideration of complaints (subject to approval of the Board)
Regulations 4, 13 to 18	Chief Executive (functions may be delegated to Chief Commercial Officer)	Functions of “responsible person” under the Regulations Ensuring compliance including any necessary action taken in light of outcome of complaint
	NHS Improvement’s Head of Enquiries, Complaints and Whistleblowing	Functions of complaints manager under the Regulations Managing procedures for handling and considering complaints, including complaint outcome decisions and preparing annual report on complaints

### Whistleblowing (Monitor and NHS TDA)

NHS Improvement’s ‘raising concerns’	Chief Executive National Medical Director	Decisions on how matters to be investigated and considering investigation reports
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Classification: Official

policy for NHS Improvement staff (FTSU)		
Section 43F of Employment Rights Act 1996 and Public Interest Disclosure (Prescribed Persons) Order 2014	Chief People Officer	Managing responsibilities of Monitor as a “prescribed person” to whom protected disclosures may be made
Prescribed Persons (Reports on Disclosure of Information) Regulations 2017	Chief People Officer	Publish annual report on protected disclosures Monitor and NHS TDA have received

Health and Safety at Work Act 1947

Section 1	Chief Executive/Chief Operating Officer	Overall responsibility for compliance with duty to ensure health and safety of staff
	Chief Commercial Officer	Make arrangement to secure compliance (policies etc)

Information governance

Data Protection Act and General Data Protection Regulation	Data Protection Officer	Functions conferred on the data protection officer
Freedom of Information Act	Chief Finance Officer	Make arrangement to secure compliance with duties under the Act
NHS Improvement’s Information Governance Framework	Chief Executive/Chief Operating Officer	Accountable for ensuring effective system of Information Governance and internal control is in place
	NHS Executive	Decide to sign off statement of compliance Consider reports from SIRO
	Caldicott Guardian	Advise on options for lawful and ethical processing
	Chief Commercial Officer (SIRO)	Approval of IG strategies, policies, implementation and support documentation

Classification: Official

Information Security Policy	Chief Commercial Officer (SIRO)	Approval for monitoring of individual email, internet and other communications
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### 3 Scheme of Delegation - Functions relating to oversight and regulation of providers

Reference:	Delegated To:	Functions:
<b>NHS Act 2006 (Monitor functions)</b>		
Section 33	Regional Directors Director of Provider Transformation	<ul style="list-style-type: none"> <li>Receipt and processing of applications by NHS trusts to become an FT</li> </ul>
Section 35	Regional Directors Director of Provider Transformation	<ul style="list-style-type: none"> <li>Assess FT applications, including decisions about deferral and delay</li> <li>Make recommendations to Provider Oversight Committee on authorisation</li> </ul>
Section 39	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Maintain register of FTs</li> <li>Provide copies/extracts from documents in the register</li> </ul>
Sections 56 to 57A	Regional Directors	<ul style="list-style-type: none"> <li>Assess statutory transactions involving FTs</li> <li>Make recommendations to:                             <ol style="list-style-type: none"> <li>Provider Oversight Committee, on statutory transactions involving FTs, if involves trust in special measures or transaction is red-rated or high risk; and</li> <li>Regional Support Group, on other statutory transactions involving FTs</li> </ol> </li> </ul>
Sections 65D, 65DA, 65F, 65H, 65I, 65J, 65KA, 65L, 65LA, 65M 65N	Chief Operating Officer Director of Provider Transformation Regional Directors	<ul style="list-style-type: none"> <li>Produce reports, carry out assessment and make recommendations to Provider Oversight Committee or the Board in relation to Monitor's functions in relation to trust special administration of an FT</li> </ul>

#### 2012 Act (Monitor functions)

Section 85	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Determine Monitor's requirements for form of licence application and information which must accompany or be included in such applications</li> </ul>
Section 86	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Determine or make recommendations to Provider Oversight Committee as to the criteria for grant of a licence by Monitor</li> </ul>
Sections 87, 90 and 91	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Make decisions on grant and refusal of licence applications, as authorised by Provider Oversight Committee</li> </ul>
Section 93	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Maintain and publish register of licence holders</li> <li>Decide information to include in the register of licence holders and determine what fee, if any, is payable for copy/extract of register</li> </ul>

Classification: Official

Reference:	Delegated To:	Functions:
Sections 94, 97, 100 and 101(4)	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Make recommendations to Provider Oversight Committee as to the standard conditions to be included licence, the modification of any such conditions and whether to make a reference to the CMA when the s.100 objection threshold is reached</li> </ul>
Sections 95 and 101(2)	Regional Directors	<ul style="list-style-type: none"> <li>Make recommendations to Provider Oversight Committee as to whether to include special condition in an FT's licence and whether to make a reference to the CMA where the FT refuses consent</li> </ul>
	Director of Provider Transformation	<ul style="list-style-type: none"> <li>As above, but for licence holders other than FTs</li> </ul>
Schedule 10	Regional Directors Director of Provider Transformation	<ul style="list-style-type: none"> <li>Make decisions (or make recommendations to the Provider Oversight Committee) in relation to references to the CMA</li> </ul>
Section 99	Regional Directors	<ul style="list-style-type: none"> <li>Ensure NHS England and CCGs notified of action taken against an FT in reliance on a condition in the licence under section 97(1)(i), (j) or (k) (continuity of services)</li> </ul>
	Director of Provider Transformation	<ul style="list-style-type: none"> <li>As above, but for licence holders other than FTs</li> </ul>
Section 104	Regional Directors	<ul style="list-style-type: none"> <li>Require a person mentioned in s.104(2) to provide information, documents, records or other items considered necessary or expedient for purposes of Monitor's functions under Chapter 3 of Part 3 of the 2012 Act (licensing)</li> </ul>
	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Require a person mentioned in s.104(2) to provide information, documents, records or other items considered necessary or expedient for purposes of Monitor's functions under Chapter 3 of Part 3 of the 2012 Act (licensing) in relation to a licence holder other than an FT</li> </ul>
Sections 105, 106 and Schedule 11 <sup>1</sup>	Regional Directors	<ul style="list-style-type: none"> <li>Make recommendations to the Regional Support Group or Provider Oversight Committee as to accepting enforcement undertakings, imposing discretionary requirements, imposing additional licence conditions, taking action for breach of such a condition and issuing/revoking compliance certificates and statements of compliance, in relation to FTs</li> <li>Ensuring publication of enforcement action in relation to FTs</li> </ul>
	Director of Provider Transformation	<ul style="list-style-type: none"> <li>As above, but for licence holders other than FTs</li> </ul>
Section 111	Regional Directors	<ul style="list-style-type: none"> <li>Make recommendations to the Regional Support Group or Provider Oversight Committee as to imposing and removing additional licence conditions on FTs and taking action for breach of such a condition</li> <li></li> </ul>
Section 108 and paragraph 11 of Schedule 8	Chief Financial Officer Chief Operating Officer Director of Provider Transformation	<ul style="list-style-type: none"> <li>Make recommendations to the Provider Oversight Committee (or the Board) on publication and revision of guidance as to use of enforcement powers and procedure for entering enforcement undertakings</li> </ul>

<sup>1</sup> See also Section 9 (functions relating to pricing)

Classification: Official

Reference:	Delegated To:	Functions:
Chapter 3 of Part 3 and Transactions Guidance	Regional Directors	<ul style="list-style-type: none"> <li>Assess and make recommendations as to risk-rating of transactions involving FTs and NHS trusts</li> </ul>
Chapter 3 of Part 3 and Capital Guidance	Regional Directors	<ul style="list-style-type: none"> <li>Assess FT proposals involving capital investment or property transactions and make recommendations to Chief Financial Officer, relevant NHS Improvement committee or the Board</li> </ul>
Section 288(2)(b) and (c) and (3)	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Make arrangements with the Care Quality Commission (CQC) to ensure that (i) a person applying both for a licence and for CQC registration may do so in a single application form and (ii) such a person is granted a licence and registration by way of a single document</li> <li>Seek to secure that in such cases, the conditions in the licence are consistent with the conditions of the person's CQC registration</li> <li>Provide CQC, on request, with any material relevant to the exercise of Monitor's functions pursuant to section 73(2) (market investigations under the Enterprise Act 2002)</li> </ul>

TDA Directions (NHS TDA functions)

Direction 2(1)	National Directors	<ul style="list-style-type: none"> <li>Work collaboratively with Monitor under single leadership and operating model, including support work, to ensure improvement in the quality of care, patient safety and financial sustainability across the health service</li> </ul>
Direction 2(2)	National Directors	<ul style="list-style-type: none"> <li>Take such steps as considered necessary and appropriate to assist and support providers of health services to ensure continuous improvement in the quality of the provision of such services and their financial sustainability</li> </ul>
Direction 3(1)(b)	National Directors	<ul style="list-style-type: none"> <li>Take such steps as considered necessary and appropriate to design methods to be used by NHS TDA, and develop &amp; publish guidance to NHS trusts, in connection with NHS TDA overseeing, developing and supporting NHS trusts in relation to:               <ol style="list-style-type: none"> <li>clinical quality, governance and management of risk in NHS trusts; and</li> <li>compliance by NHS trusts with Care Quality Commission requirements and standards set by NHS TDA, (subject to approval of Board or relevant committee as may be necessary or appropriate)</li> </ol> </li> </ul>
Direction 3(1)(b)	Chief Operating Officer Director of Provider Transformation	<ul style="list-style-type: none"> <li>Take such steps as considered necessary and appropriate to design methods to be used by NHS TDA, and develop &amp; publish guidance to NHS trust, in connection with NHS TDA overseeing, developing and supporting NHS trusts in relation to progress of NHS trusts towards satisfying Monitor of matters necessary to obtain FT authorisation (subject to approval of Provider Oversight Committee or the Board as may be necessary or appropriate)</li> </ul>
Direction 3(1)(c)	National Directors	<ul style="list-style-type: none"> <li>Take such steps as considered necessary and appropriate to design methods to be used by NHS TDA, and develop &amp; publish guidance, in connection with NHS TDA working collaboratively with Monitor to oversee, develop and support providers of health services with the objective of continuing the improvement in the quality of such services (subject to approval of Board or relevant committee as may be necessary or appropriate)</li> </ul>
Direction 6(b)	National Directors	<ul style="list-style-type: none"> <li>Oversee, develop and support NHS trusts, including by:               <ol style="list-style-type: none"> <li>assessing:</li> </ol> </li> </ul>

Classification: Official

Reference:	Delegated To:	Functions:
		<ul style="list-style-type: none"> <li>i. clinical quality, governance and management of risk, including financial risk, in NHS trusts,</li> <li>ii. NHS trusts compliance with Care Quality Commission requirements and standards set by NHS TDA, and</li> <li>iii. progress of NHS trusts towards satisfying Monitor of matters necessary to obtain FT authorisation; and</li> </ul> <p>b. where:</p> <ul style="list-style-type: none"> <li>i. NHS TDA considers improvements clinical quality, governance and management of risk, including financial risk, could be made,</li> <li>ii. NHS trusts are not meeting with Care Quality Commission requirements and standards set by NHS TDA, or</li> <li>iii. suitable progress is not being made towards satisfying Monitor of matters necessary to obtain FT authorisation,</li> </ul> <p>assisting those trusts to make improvements, meet such standards, or make such progress by providing, advice, support, help or guidance</p>
Direction 6(a), (b)(ii)(bb) and (c) <sup>2</sup>	Regional Directors	<ul style="list-style-type: none"> <li>• Make recommendations to the Regional Support Group or Provider Oversight Committee as to accepting enforcement undertaking, giving directions and issuing/revoking compliance certificates or statements of compliance, in relation to NHS trusts</li> <li>• Ensuring publication of enforcement action relating to NHS trusts</li> </ul>
	Chief Financial Officer	<ul style="list-style-type: none"> <li>• Making recommendations to the Provider Oversight Group or the Board as to which conditions equivalent to the conditions of the Monitor licence are appropriate to apply NHS trusts</li> <li>• Setting out those conditions in guidance issued by NHS TDA to NHS trusts</li> </ul>
Direction 6(e)	Regional Directors	<ul style="list-style-type: none"> <li>• Provide advice to individual NHS trusts to assist those trusts to prepare place for each financial year as to how those trusts will exercise their functions</li> </ul>
	Chief Financial Officer	<ul style="list-style-type: none"> <li>• Provide advice to NHS trusts generally to assist those trusts to prepare place for each financial year as to how those trusts will exercise their functions</li> </ul>
Direction 6(f)	Regional Directors	<ul style="list-style-type: none"> <li>• Scrutinise the annual plans prepared by NHS trusts and consider that those plans could be improved— <ul style="list-style-type: none"> <li>a. provide feedback on the plans to those trusts; and</li> <li>b. assist those trusts to amend those plans to take that feedback into account.</li> </ul> </li> </ul>
Direction 6(g)(i) to (iii), (v) and (viii)	Regional Directors Chief Operating Officer Director of Provider Transformation	<ul style="list-style-type: none"> <li>• Oversee, develop and support NHS trusts to assist those trusts to become sustainable organisations, including by: <ul style="list-style-type: none"> <li>a. supporting them to comply with duty to exercise functions effectively, efficiently and effectively,</li> <li>b. supporting trusts to ensure they are in a position to apply for FT status;</li> <li>c. exercising Secretary of State’s function as to whether to support an NHS trust’s application for FT status;</li> <li>d. preparing a report to Secretary of State as to whether to support an application to be authorised as an FT;</li> </ul> </li> </ul>

<sup>2</sup> See also Section 9 (functions relating to pricing)

Classification: Official

Reference:	Delegated To:	Functions:
		<ul style="list-style-type: none"> <li>e. taking such other steps as appropriate</li> </ul>
Direction 6(g)(iv) and Transactions Guidance	Regional Directors Director of Provider Transformation	<ul style="list-style-type: none"> <li>• Assess (including consideration of appropriate risk rating) proposals of NHS trusts to—               <ul style="list-style-type: none"> <li>a. dissolve and transfer property and liabilities to other NHS trusts or FTs;</li> <li>b. make an application to Monitor for merge with an FT;</li> <li>c. make an application to Monitor to be acquired by an FT; or</li> <li>d. be a receiver of property and liabilities arising from dissolutions, mergers or acquisitions of NHS trusts or FTs or separations of FTs,</li> </ul>               and make recommendations to Regional Support Group or Provider Oversight Committee, as appropriate, on those proposals             </li> </ul>
Direction 6(g)(vi) and (vii)	Regional Directors	<ul style="list-style-type: none"> <li>• Make recommendations to NHS trusts that such trusts should:               <ul style="list-style-type: none"> <li>a. dissolve and transfer property and liabilities to other NHS trusts or FTs;</li> <li>b. make an application to Monitor for merge with an FT;</li> <li>c. make an application to Monitor to be acquired by an FT; or</li> <li>d. be a receiver of property and liabilities arising from dissolutions, mergers or acquisitions of NHS trusts or FTs or separations of FTs.</li> </ul> </li> <li>• Negotiate and liaise with other NHS trusts or FTs in order to make such recommendations and facilitating such dissolutions, transfer, acquisitions and mergers</li> </ul>
Direction 6(h) to (j)	Regional Directors	<ul style="list-style-type: none"> <li>• Consider whether it is appropriate for Secretary of State to make an order under section 66 (intervention powers) or section 68 (default powers) in respect of an NHS trust and making appropriate recommendations to the Provider Oversight Committee or the Board</li> <li>• Carry out inquiries and draft reports as referred to in direction 6(1)(h) to (i), for approval as appropriate by Provider Oversight Committee or the Board</li> </ul>
Direction 6(k) and Capital Guidance	Regional Directors	<ul style="list-style-type: none"> <li>• Assess NHS trust proposals involving capital investment or significant commercial transactions</li> <li>• Where proposals do not exceed financial limits and are not novel, contentious or repercussive, to determine whether proposals require approval of NHS TDA</li> <li>• Where proposals require approval of NHS TDA or Secretary of State, make recommendations to Chief Financial Officer, relevant NHS Improvement committee or the Board</li> </ul>
Direction 6(l)	Regional Directors	<ul style="list-style-type: none"> <li>• Request information, which NHS TDA requires in order to carry out its functions, from NHS trusts</li> </ul>
Direction 7(1) and (2)	Chief Operating Officer Director of Provider Transformation Regional Directors	<ul style="list-style-type: none"> <li>• Produce reports, carry out assessment and make recommendations to Provider Oversight Committee or the Board in relation to Monitor’s functions in relation to trust special administration of an NHS trust</li> </ul>
Direction 7(3)	Regional Directors	<ul style="list-style-type: none"> <li>• Inform CQC if aware that there has been or may be a serious failure by an NHS trust to provide services that are of a sufficient quality to be provided under the NHS Act 2006</li> </ul>

Classification: Official

Reference:	Delegated To:	Functions:
Standard licence conditions (or equivalent for NHS trusts) and guidance (Monitor functions, but * indicates also NHS TDA function)		
Guidance on special measures and Single Oversight Framework*	Regional Directors	<ul style="list-style-type: none"> <li>Make recommendations to Provider Oversight Committee on whether an NHS trust or FT should be placed in or exited from special measures (segment 4)</li> <li>Ensure arrangements are made to provide support to special measures trusts</li> </ul>
Licence condition G1*	Regional Directors Director of Provider Transformation (in relation to licence holder other than FT)	<ul style="list-style-type: none"> <li>Require licence holder (or NHS trust) to furnish information and documents, or prepare or procure and furnish reports, in such form, at such place and at such times as NHS Improvement may require</li> </ul>
Licence condition G2*	Regional Directors Director of Provider Transformation	<ul style="list-style-type: none"> <li>Direct licence holder (or NHS trust) to publish information about NHS health care services and as to the manner in which such information should be published</li> </ul>
Licence condition G5*	National Directors	<ul style="list-style-type: none"> <li>Issue (or make recommendations to Provider Oversight Committee or the Board as to the issue of) guidance for any of purposes set out in section 96(2) of the 2012 Act</li> </ul>
Licence condition CoS1	Regional Directors	<ul style="list-style-type: none"> <li>Make recommendation to Provider Oversight Committee as to whether to give direction to licence holder to continue to provide Commissioner Requested Services</li> </ul>
Licence condition CoS2(5)	Regional Directors	<ul style="list-style-type: none"> <li>Make recommendation to Provider Oversight Committee as to whether to give consent in writing to FT or other licensee disposing any relevant assets (assets without which the licensee's ability to meet its obligation to provide Commissioner Requested Services would reasonably be regarded as materially prejudiced)</li> </ul>
Licence condition CoS6	Regional Directors	<ul style="list-style-type: none"> <li>Make recommendations to Provider Oversight Committee as to whether to:                             <ol style="list-style-type: none"> <li>Notify licensee that Monitor is considered about ability of License to carry on as a going concern</li> <li>Direct licensee to provide information to commissioners and others</li> <li>Appoint persons to enter &amp; inspect premises and assist in the management of the licensee's affairs, business and property</li> </ol> </li> </ul>
Licence condition FT1(5)	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Issue, or make recommendations to Provider Oversight Committee as to issue of, directions as to the format in which electronic copies of documents are to be made to Monitor under condition FT 1 (information to update FT register)</li> </ul>
Licence condition FT2	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Notify licensees that required to pay fees (where the Board has decided that fees are to be payable)</li> </ul>
Single Oversight Framework*	Regional Directors	<ul style="list-style-type: none"> <li>Consider support needs of NHS trusts and FTs, determine detail of support packages for such trusts and make appropriate recommendations relating to segmentation to Regional Support Group or Provider Oversight Committee</li> </ul>



Classification: Official

Reference:	Delegated To:	Functions:
Guidance on FT Groups	Regional Directors	<ul style="list-style-type: none"><li data-bbox="680 240 2011 312">• Make recommendations to Provider Oversight Committee in relation to individual requests for accreditation as an FT group</li></ul>

## 4 Scheme of Delegation - Functions relating to appointments and leadership

Reference:	Delegated To:	Functions:
<a href="#">Directions to the TDA and guidance (NHS TDA functions)</a>		
Direction 3(1)(a) TDA Directions	Chief People Officer	<ul style="list-style-type: none"> <li>Take such steps as considered necessary and appropriate to design methods to be used by NHS TDA, and develop &amp; publish guidance to NHS trusts, special trustees and trustees for NHS trusts and FTs, in connection with NHS TDA making appointments of non-executive directors of NHS trusts, special trustees and trustees for NHS trusts and FTs (subject to methods and guidance being approved by People Committee)</li> </ul>
Direction 4(1)(a) TDA Directions	Chief People Officer	<ul style="list-style-type: none"> <li>Make recommendations to People Committee (or relevant sub-committee) for the appointment of chairs of NHS trusts, special trustees and trustees for NHS trusts and FTs (and NEDs of companies appointed as trustees)</li> <li>Develop role descriptions and criteria for appointment (subject to approval of People Committee)</li> <li>Manage procedures for appointment and ensure they are open, transparent and comply Government's Code for Appointments</li> <li>Consult chairs in relation to appointment of trustees</li> </ul>
	Chief People Officer Regional Directors	<ul style="list-style-type: none"> <li>Make recommendations to People Committee (or relevant sub-committee) for the appointment of NEDs of NHS trusts</li> <li>Develop role descriptions and criteria for appointment (subject to approval of People Committee)</li> </ul>
Direction 4(1)(b) TDA Directions	Chief People Officer	Make recommendations to the People Committee (or relevant sub-committee) for the exercise of other Secretary of State's functions relating to appointment of chairs of NHS trusts, including decisions on suspension, termination and disqualification
	Chief People Officer Regional Directors	Make recommendations to the People Committee (or relevant sub-committee) for the exercise of other Secretary of State's functions relating to appointments of NEDs of NHS trusts, including decisions on suspension, termination and disqualification
Direction 4(1)(c) and (d) TDA Directions	Chief People Officer	Make recommendations to People Committee (or relevant sub-committee) in relation to the termination of trustee's tenure of office and requests to company trustee to remove a NED
Direction 4(1)(e) TDA Directions	Chief People Officer	Record, update and keep information about appointments and applications
Direction 4(1)(f) and (g) TDA Directions	Chief People Officer Regional Directors	<ul style="list-style-type: none"> <li>Advise chairs and NEDs of NHS trusts, and trustees, on development of their roles</li> <li>Secure that chairs, NEDs and trustees receive training in relation to their roles</li> </ul>
Direction 4(1)(h) and (i) TDA Directions	Chief People Officer Regional Directors	Develop procedures for, and carry out, appraisals for chairs and NEDs of NHS trusts and trustees (procedures subject to approval of People Committee)

Classification: Official

Reference:	Delegated To:	Functions:
Direction 6(m) TDA Directions	Chief People Officer (if not Chief Executive)	Designate chief executive of each NHS trust as its Chief Accountable Officer
Direction 8(a) TDA Directions	Chief People Officer	Furnish to the Commissioner for Public Appointments such information relating to the appointments for which NHS TDA is responsible (chairs and NEDs of NHS trusts, special trustees and trustees of NHS trusts and FTs) as the Commissioner may from time to time require
NHS TDA (Leadership Academy) Directions 2019	Chief People Officer	Provide for the operation of the Leadership Academy, including ensuring that the Academy takes such steps as considered necessary and appropriate to ensure that the persons providing and commissioning services as part of the health service in England have leaders with the necessary knowledge, skills, attitudes and behaviours
Guidance on senior appointments in NHS trusts	Regional Directors	Decide whether candidates for chief executive or other executive directors of NHS trusts are suitable

NHS Act 2006, 2012 Act and licence conditions (Monitor functions)

Section 39A of NHS Act 2006	Chief People Officer	Appoint panel for advising FT governors Pay panel expenses and provide administrative support, if panel appointed
Section 50 of NHS Act 2006	Chief People Officer	Determine fees for maintaining panel for advising FT governors
Licence condition G4	Chief People Officer	Decide whether to approve appointment of director of FT or other licence holder if the individual is unfit for the purposes of that licence condition

## 5 Scheme of Delegation - Functions relating to finance and resources (other than pricing)

Reference:	Delegated To:	Functions:
<a href="#">NHS Act 2006 (Monitor functions)</a>		
Paragraph 24 of Schedule 7	Chief Financial Officer	<ul style="list-style-type: none"> <li>Give directions as to the form and content of FT accounts</li> </ul>
Paragraph 25 of Schedule 7	Chief Financial Officer	<ul style="list-style-type: none"> <li>Give directions as to form and content of FT annual accounts, and methods/principles of account to be used</li> <li>Receipt of FT annual accounts and auditor reports</li> </ul>
Paragraph 26 of Schedule 7	Chief Financial Officer	<ul style="list-style-type: none"> <li>Receipt of FT annual reports</li> <li>Specify information to be included in FT annual reports (consulting where necessary)</li> <li>Determine the form of annual reports, periods to which they relate and timing of submission</li> </ul>
Paragraph 27 of Schedule 7	Chief Financial Officer Regional Directors	<ul style="list-style-type: none"> <li>Receipt of forward planning information</li> </ul>

### [2012 Act and related instruments \(Monitor functions, but \\* indicates also TDA function\)](#)

Paragraph 13 of Schedule 8	Chief Financial Officer	<ul style="list-style-type: none"> <li>Approve Monitor's borrowing money by way of overdraft</li> </ul>
Paragraph 17 of Schedule 8	Chief Financial Officer	<ul style="list-style-type: none"> <li>Prepare and submit consolidation of FT accounts</li> </ul>
Paragraph 18 of Schedule 8	Chief Financial Officer	<ul style="list-style-type: none"> <li>Ensuring Monitor keeps proper accounts and proper records in relation to the accounts</li> </ul>
Paragraph 19 of Schedule 8	Chief Financial Officer	<ul style="list-style-type: none"> <li>Prepare and submit Monitor's annual accounts (subject to approval of the Board)</li> </ul>
	Chief Executive	<ul style="list-style-type: none"> <li>Accounting Officer duties in relation to Monitor's annual accounts</li> </ul>
Paragraph 20 of Schedule 8	Chief Financial Officer	<ul style="list-style-type: none"> <li>Prepare and submit Monitor's interim accounts (subject to approval of the Board), if directed by Secretary of State</li> </ul>
	Chief Executive	<ul style="list-style-type: none"> <li>Accounting Officer duties in relation to Monitor's interim accounts</li> </ul>
Chapter 3 of Part 3 and Capital Guidance	Chief Financial Officer	<ul style="list-style-type: none"> <li>Assess and advise on FT proposals involving capital investment or property transactions</li> <li>Decide whether to approve business cases between £15 million and £30 million</li> <li>Make recommendations to relevant NHS Improvement committee or the Board on cases above £30 million</li> </ul>
Standard conditions of the licence, Condition FT6(8)(b)*	Chief Financial Officer	<ul style="list-style-type: none"> <li>Require a statement from the auditors of an FT or NHS trust in relation to whether the trust has taken all the actions set out in its corporate governance statement</li> </ul>

### [NHS Act 2006 \(NHS TDA functions\)](#)

## Classification: Official

Reference:	Delegated To:	Functions:
Sections 226 and to 227	Chief Financial Officer Chief Executive (as Accounting Officer)	<ul style="list-style-type: none"> <li>Ensuring NHS TDA complies with financial duties under section 226 and resource limits under section 227</li> </ul>
Paragraph 7 of Schedule 6	Chief Financial Officer	<ul style="list-style-type: none"> <li>Approving subscriptions to funds of bodies</li> </ul>
Paragraph 8 of Schedule 6	Chief Financial Officer	<ul style="list-style-type: none"> <li>Accept gifts of property to NHS TDA</li> </ul>
Paragraph 2 of Schedule 15	Chief Financial Officer	<ul style="list-style-type: none"> <li>Ensuring NHS TDA keeps proper accounts</li> </ul>
Paragraph 3, 5(3) and 6(3) of Schedule 15	Chief Financial Officer	<ul style="list-style-type: none"> <li>Prepare and submit NHS TDA's annual accounts (subject to approval of the Board), and lay before Parliament</li> </ul>
	Chief Executive	<ul style="list-style-type: none"> <li>Accounting Officer duties in relation to NHS TDA's accounts</li> </ul>

### Directions (NHS TDA functions)

Direction 6(e)	Chief Financial Officer	<ul style="list-style-type: none"> <li>Provide general advice to NHS trusts to assist those trusts to prepare plans for each financial year as to how those trusts will exercise their functions</li> </ul>
Direction 6(g)(i) of TDA Directions	Chief Financial Officer	<ul style="list-style-type: none"> <li>Oversee, develop and support NHS trusts to assist those trusts to become sustainable organisations by supporting them to comply with duty to exercise functions effectively, efficiently and effectively</li> </ul>
Direction 6(k) of TDA Directions and Capital Guidance	Chief Financial Officer	<ul style="list-style-type: none"> <li>Assess and advise on NHS trust proposals involving capital investment or significant property or commercial transactions</li> <li>Decide whether to approve business cases between £15 million and £30 million</li> <li>Make recommendations to relevant NHS Improvement committee or the Board on cases above £30 million</li> </ul>
Directions to TDA in respect of the Accounts and Annual Reports of NHS Trusts	Chief Financial Officer	<ul style="list-style-type: none"> <li>Receive annual reports and accounts of NHS trusts</li> <li>Give directions to NHS trusts specifying the date by which accounts must be submitted</li> </ul>
The Consolidated Provider Accounts Directions	Chief Financial Officer	<ul style="list-style-type: none"> <li>Prepare consolidated provider accounts (NHS trusts and FTs)</li> </ul>

Local Audit and Accountability Act 2014

Classification: Official

Reference:	Delegated To:	Functions:
Section 30(2) (as modified by paragraph 13 of Schedule 13)	Chief Financial Officer	<ul style="list-style-type: none"> <li>• Receive NHS trust auditor reports of unlawful expenditure or activity</li> </ul>
Paragraphs 2 and 3 of Schedule 7 (as modified by paragraph 12 of Schedule 13)	Chief Financial Officer	<ul style="list-style-type: none"> <li>• Receive NHS trust auditor written recommendations and public interest reports</li> </ul>
Paragraph 9 of Schedule 13	Chair of Audit and Risk Committee	<ul style="list-style-type: none"> <li>• Duty to inform the Secretary of State if an NHS trust has failed to appoint an auditor by 25 March each year</li> <li>• If directed by Secretary of State, to take the steps under paragraph 9(4) of Schedule 13 to the Act as NHS TDA considers appropriate</li> <li>• Inform and consider representations as required by paragraph 9(6)</li> </ul>

## 6 Scheme of Delegation - Functions relating to medical and nursing matters

Reference:	Delegated To:	Functions:
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### 2012 Act (Monitor functions)

Section 62(7)	Chief Nursing Officer	<ul style="list-style-type: none"> <li>Make arrangements to ensure that patients and public are involved to an appropriate degree in Monitor's decisions</li> </ul>
Section 62(8)	National Medical Director Chief Nursing Officer	<ul style="list-style-type: none"> <li>Provide, and oversee arrangements for obtaining, health professional advice appropriate for enabling Monitor to effectively discharge its functions</li> </ul>

### NHS Act 2006, regulations and directions (NHS TDA functions)

Section 13R and regulation 2 of the National Health Service Trust Development Authority (Directions and Miscellaneous Amendments etc) Regulations 2016	National Medical Director	<ul style="list-style-type: none"> <li>Patient safety functions:                             <ol style="list-style-type: none"> <li>Establish systems for collecting and analysing NHS patient safety information (e.g. National Reporting and Learning System)</li> <li>Make such information available</li> <li>Give advice and guidance for purpose of maintaining and improving safety</li> </ol> </li> </ul>
The NHS TDA (Healthcare Safety Investigation Branch) Directions 2016	National Medical Director	Oversight of HSIB in accordance with the directions, including: <ul style="list-style-type: none"> <li>provide for operation of the HSIB and ensure it exercises certain functions listed in directions</li> <li>impose requirements on Chief Investigator and HSIB as set out in directions</li> <li>take reasonable steps to protect independence of HSIB</li> <li>ensure HSIB report is published</li> </ul>
	National Medical Director Chief Financial Officer	Authority's duties in relation to the funding of HSIB (direction 11): <ul style="list-style-type: none"> <li>pay entirety of HSIB annual allocation and any extraordinary payment</li> <li>ensure, with HSIB, that extraordinary payment spent only on investigation to which it relates</li> <li>seek instructions from Secretary of State as to disposal of surpluses</li> </ul>

## 7 Scheme of Delegation - Functions relating to pricing

Reference:	Delegated To:	Functions:
<b>2012 Act (Monitor functions)</b>		
Section 69	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Prepare impact assessment of, and consult on, proposals for the national tariff</li> </ul>
Section 104	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Require a person mentioned in s.104(2) to provide information, documents, records or other items considered necessary or expedient for purposes of Monitor's functions under Chapter 4 of Part 3 of the 2012 Act (pricing)</li> </ul>
Sections 105, 106 and Schedule 11	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Make recommendations to the Regional Support Group or Provider Oversight Committee as to accepting enforcement undertakings, imposing discretionary requirements, imposing additional licence conditions, taking action for breach of such a condition and issuing/revoking compliance certificates and statements of compliance, in relation to compliance by FTs or other licence holders with pricing/costing requirements</li> <li>Ensuring publication of pricing enforcement action in relation to FTs and other licence holders</li> </ul>
Section 116	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Publish national tariff in accordance with section 116, as approved by the Board as necessary</li> </ul>
Section 117(4) and (5)	Director of Pricing and Costing Director of Provider Transformation	<ul style="list-style-type: none"> <li>Subject to approval of the Board, direct CCGs in relation to cases where CCG has (a) agreed a price other than price payable by virtue of Chapter 4 of Part 3 of the 2012 Act or (b) failed to comply with rules provided for under section 116(2), (4) or (6) (including local variation and local pricing rules)</li> </ul>
	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Subject to approval of the Board, direct NHS England in relation to cases where NHS England has (a) agreed a price other than price payable by virtue of Chapter 4 of Part 3 of the 2012 Act or (b) failed to comply with rules provided for under section 116(2), (4) or (6) (including local variation and local pricing rules)</li> </ul>
Section 118	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Prepare proposals for the national tariff</li> <li>Publish consultation notice on the national tariff, as approved by the Board as necessary</li> </ul>
	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Agree proposals for the national tariff with NHS England, in accordance with section 118</li> </ul>
Section 120 and Schedule 12	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Refer method for determining national prices to the CMA if objection threshold reached and related functions</li> </ul>
	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Agree that a reference should be made, subject to approval of the Board as necessary</li> </ul>
Section 122	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Determine (proposed and final) changes to the method where CMA remits a matter under section 121(6), subject to approval of the Board as necessary</li> </ul>



Classification: Official

Reference:	Delegated To:	Functions:
	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Notify CMA and NHS England of proposed changes</li> <li>Make changes to the method as determined/agreed by Director of Provider Transformation or the Board</li> </ul>
Section 123	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Comply with a direction from the CMA under section 123</li> </ul>
Section 124	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Assess and make recommendations on whether to approve a local modification agreement</li> <li>Determine evidence Monitor requires to be submitted with a local modification agreement</li> <li>Send and publish notice under section 124(6) to (8)</li> </ul>
	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Decide whether to approve a local modification agreement, subject to approval of the Board as necessary</li> </ul>
Section 125	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Assess and make recommendations on whether to grant a local modification application</li> <li>Determine evidence Monitor requires to be submitted with a local modification application</li> <li>Send and publish notice under section 125(6) to (8)</li> </ul>
	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Decide whether to grant a local modification application, subject to approval of the Board as necessary</li> </ul>
Section 126	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Notify commissioners that continued provision of commissioner requested services is put at risk by configuration of certain health care services</li> <li>Ensure list of notifications is published by Monitor</li> </ul>
Section 127	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Send and publish notice relating to correct of mistakes in national tariff</li> </ul>

Standard licence conditions (or equivalent for NHS trusts) and TDA directions

Licence condition P1	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Require licence holders and NHS trusts to record costing information in compliance with condition P1 and Monitor's Approved Costing Guidance</li> <li>Determine the content of, and publishing, the Approved Costing Guidance</li> </ul>
Licence condition P2	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Require licence holders and NHS trusts to furnish Monitor with information and documents, and prepare or procure and furnish Monitor with reports for the purposes of Monitor's pricing functions</li> <li>Determine information and reports to be required</li> </ul>
Licence condition P3	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Require licence holders and NHS trusts to obtain and submit assurance reports on costing submissions</li> </ul>
Direction 6(a) and (c) of the TDA Directions	Director of Pricing and Costing	<ul style="list-style-type: none"> <li>Make recommendations to the Regional Support Group or Provider Oversight Committee as to accepting enforcement undertaking, giving directions and issuing/revoking compliance certificates or statements of compliance, in relation to compliance by NHS trusts with pricing/costing requirements</li> </ul>

Classification: Official

Reference:	Delegated To:	Functions:
Direction 6(l) of the TDA Directions	Director of Pricing and Costing	<ul style="list-style-type: none"><li data-bbox="689 248 2011 304">Request information from NHS trusts, which NHS TDA requires in order to carry out its functions in relation to pricing enforcement, from NHS trusts</li></ul>

## 8 Scheme of Delegation – Functions relating to commercial matters

Reference:	Delegated To:	Functions:
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### NHS TDA functions

Directions under section 7(2) of the Health and Medicines Act 1988	Chief Commercial Officer Chief Financial Officer Regional Directors	<ul style="list-style-type: none"> <li>Decisions on proposals for NHS TDA income generation schemes (subject to Board approval and compliance with internal finance controls)</li> </ul>
Direction 6(g)(i) of TDA Directions	Chief Commercial Officer	<ul style="list-style-type: none"> <li>Oversee, develop and support NHS trusts to assist those trusts to become sustainable organisations by supporting them to comply with their duty to exercise functions effectively, efficiently and effectively, in particular by providing advice and support in respect of the efficient management of their estates including the achievement of efficiency savings and reduced running costs and the identification and disposal of surplus land (NHS TDA function)</li> </ul>

### Monitor and NHS TDA functions

Public Procurement Regulations 2015	Chief Commercial Officer	<ul style="list-style-type: none"> <li>Make arrangements to comply with requirements of Public Contracts Regulations 2015</li> </ul>
Section 1 of the Public Services (Social Value) Act 2012	Chief Commercial Officer	<ul style="list-style-type: none"> <li>Duty to consider how, in the context of procuring services, economic, social and environmental well-being may be enhanced</li> </ul>

## 9 Scheme of Delegation - Functions relating to competition, procurement and patient choice

Reference:	Delegated To:	Functions:
<a href="#">2012 Act and regulations made under s.75 of that Act (Monitor functions)</a>		
Section 72	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Decide whether to investigate potential infringements of Competition Act 1998 and on scope of investigation</li> </ul>
Section 73	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Make recommendations to Provider Oversight Committee or the Board on whether to institute market investigation the Enterprise Act 2002 and on scope of potential investigation</li> </ul>
Regulation 13 of PPCCR	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Decide whether to formally investigate complaint that CCG or NHS England has failed to comply with a requirement imposed by regulations 2 to 12 of the PPCCR (procurement, patient choice and competition) or requirements of the Standing Rules regulations relating to patient choice, and decide scope of investigation</li> <li>Decide whether to formally investigate failure to comply with regulation 10 of PPCCR (anti-competitive behaviour) and decide scope of investigation</li> <li>Decide whether to require CCG or NHS England to provide information (reg 13(5))</li> </ul>
Regulations 14 to 16 of PPCCR	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Make recommendations to Provider Oversight Committee or the Board on enforcement action (declaration of ineffectiveness, directions or undertakings) in relation to a failure to comply with a requirement imposed by regulations 2 to 12 of the PPCCR (procurement, patient choice and competition)</li> </ul>
Schedule 9 (section 77 undertakings)	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Make recommendations to Provider Oversight Committee or the Board on whether to vary undertakings, or issue or revoke compliance certificates</li> <li>Deciding what information to redact from enforcement undertakings pursuant to paragraph 2(2) of Schedule 9</li> </ul>
Section 78	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Making recommendations to Provider Oversight Committee or the Board about publishing and revising guidance about compliance with PPCCR and the exercise of powers under those regulations</li> </ul>
Section 79	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Formal decisions relating to preliminary advice to trusts and liaison with CMA, before formal advice to CMA on patient benefits under section 79 (mergers involving FTs)</li> </ul>
Section 80	Director of Provider Transformation	<ul style="list-style-type: none"> <li>Ensuring arrangements are in place for effective co-operation with CMA</li> </ul>

## 10 Scheme of Delegation – delegation derived from Rules of Procedure

Rules of Procedure Reference:	Delegated To:	Functions:
5.7.6	Chair	<ul style="list-style-type: none"> <li>• Cast second and deciding vote in the case of equality of votes</li> </ul>
5.7.9	Chair	<ul style="list-style-type: none"> <li>• Take decisions on agenda items as delegated by the Board</li> </ul>
5.7.10	Secretary	<ul style="list-style-type: none"> <li>• Circulate board papers for approval by correspondence</li> </ul>
5.9.2 and 5.9.3	Secretary or nominated deputy	<ul style="list-style-type: none"> <li>• Record the minutes of every meeting or nominate a deputy to do so</li> <li>• Submit draft minutes to the Board in advance of next meeting</li> </ul>
5.10.1	Chair	<ul style="list-style-type: none"> <li>• Exercise functions of the Board in an emergency, subject to reporting to the Board and ratification</li> </ul>
5.11.7	Committees	<ul style="list-style-type: none"> <li>• Each committee of NHS Improvement is delegated from the Board the discharge of those functions that fall within their respective terms of reference other than any matter reserved to the Board.</li> </ul>
5.11.9	Chief Executive	<ul style="list-style-type: none"> <li>• All powers of NHS Improvement which have not been reserved to the Board, or delegated to a committee, sub-committee or employee (including in the Standing Financial Instructions and Rules of Procedure)</li> </ul>
5.11.13	Secretary	<ul style="list-style-type: none"> <li>• Keep a record of the powers, authorities and discretions delegated by the Board.</li> </ul>
5.11.15	Deputy Chair	<ul style="list-style-type: none"> <li>• Functions of the Chair in relation to the Board, if Chair is absent.</li> </ul>
5.12.1	Chief Executive	<ul style="list-style-type: none"> <li>• Act as accounting officer</li> </ul>
5.13.8 and 9	Secretary	<ul style="list-style-type: none"> <li>• Ensure that a register of interests is established to record formally declarations of interests</li> </ul>
6.1.7	Chief Executive	<ul style="list-style-type: none"> <li>• Determine powers and functions of a committee and exercise certain of the Board's responsibilities in relation to such a committee</li> </ul>
6.7.2	Secretary or nominated deputy	<ul style="list-style-type: none"> <li>• Record the minutes of every committee meeting</li> </ul>