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Policy paper

# Framework agreement between the Department of Health and Social Care and Health Education England

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# Introduction and background

## Purpose of document

This framework document (the ‘framework document’) has been agreed between the Department of Health and Social Care (DHSC) and Health Education England (HEE) in accordance with HM Treasury’s handbook ‘Managing Public Money’ (MPM) (as updated from time to time) and has been approved by HM Treasury.

The framework document sets out the broad governance framework within which HEE and DHSC operate. It sets out HEE’s core responsibilities; describes the governance and accountability framework that applies between the roles of DHSC and HEE; and sets out how the day-to-day relationship works in practice, including in relation to governance and financial matters.

The document does not convey any legal powers or responsibilities but both parties agree to operate within its terms.

References to HEE include all its subsidiaries and joint ventures that are classified to the public sector and central government for national accounts purposes. If HEE establishes a subsidiary or joint venture, there shall be a document setting out the arrangements between it and HEE agreed with DHSC.

Copies of the document and any subsequent amendments have been placed in the libraries of both Houses of Parliament and made available to members of the public on the [GOV.UK website \(https://www.gov.uk/\)](https://www.gov.uk/).

This framework document should be reviewed and updated at least every 3 years unless there are exceptional reasons that render this inappropriate that have been agreed with HM Treasury and the principal accounting officer of the sponsor department. The latest date for review and updating of this document is 2024.

## Objectives

DHSC and HEE share the common objective of delivering an effective training and education system for those working in the NHS and those considering employment in the NHS. To achieve this HEE and DHSC will work together in recognition of each other’s roles and areas of expertise, providing an effective environment for HEE to achieve its objectives through the promotion of partnership and trust and ensuring that HEE also supports the strategic aims and objectives of DHSC and wider government as a whole.

DHSC sets HEE’s objectives on an annual basis in a mandate.

The general function of HEE is to support the education, training and development of the NHS and public health workforce.

## Classification

HEE has been classified as a central government organisation by the Office of National Statistics/HM Treasury Classifications team.

It has been administratively classified by the Cabinet Office as a non-departmental public body (NDPB).

## Purposes, aims and duties

### Purposes

HEE has been established under the Care Act 2014. Its purposes are set out in sections 96 to 100 of that Act.

### Powers and duties

HEE's powers and duties stem from sections 96 to 108 and Schedules 5 and 6 of the Care Act 2014.

HEE's statutory duties and functions are to:

- carry out the Secretary of State for Health and Social Care's duty under section 1F of the NHS Act 2006 to ensure an effective education and training system for healthcare workers
- undertake workforce planning for the NHS and public health system

### Aims

HEE's strategic aims are to support the education, training and development of the NHS and public health workforce.

HEE discharges this function by:

- providing national leadership on workforce planning and development, ensuring the security of supply of the professionally qualified clinical workforce

- appointing and supporting the development of local education and training boards (LETBs) to lead local planning and development activity working with regional people boards
- promoting high quality education and training, responsive to the needs of patients and local communities
- allocating and accounting for NHS and public health education and training resources and the outcomes achieved

The Care Act 2014 sets out the full range of delegated responsibilities, including the requirement to establish LETBs as statutory sub-committees of HEE to carry out HEE functions at a local level. (LETBs were abolished on 1 July 2022 in the Health and Care Act 2022)

## Governance and accountability

The arm's length body (ALB) shall operate corporate governance arrangements that, so far as practicable and in the light of the other provisions of this framework document or as otherwise may be mutually agreed, accord with good corporate governance practice and applicable regulatory requirements and expectations.

In particular (but without limitation), HEE should:

- comply with the principles and provisions of the [Corporate governance in central government departments: code of good practice](https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017) (<https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017>) (as amended and updated from time to time) to the extent appropriate and in line with their statutory duties or specify and explain any non-compliance in its annual report
- comply with [Managing Public Money](https://www.gov.uk/government/publications/managing-public-money) (<https://www.gov.uk/government/publications/managing-public-money>)
- have regard to the relevant [functional standards](https://www.gov.uk/government/collections/functional-standards) (<https://www.gov.uk/government/collections/functional-standards>) as appropriate and in particular those concerning finance, commercial and counter fraud
- take into account the codes of good practice and guidance set out in Annex 1 of this framework document, as they apply to arm's length bodies

In line with MPM Annex 3.1, HEE shall provide an account of corporate governance in its annual governance statement including the board's assessment of its compliance with the Code with explanations of any material departures. To

the extent that the company does intend to materially depart from the Code, the sponsor should be notified in advance and their agreement sought to this approach.

## **Cross-government clearance**

In addition to internal governance, cross-government clearance is required before major new policy decisions of the type set out in Cabinet Office guidance. These will not typically relate to operational decisions and management, responsibility for which sits with HEE itself. There will also be cases where the Secretary of State must consult Cabinet colleagues before giving the government's view, even if collective agreement is not required. Although such cases are likely to be small in number, the Secretary of State will be responsible for obtaining clearance. In such cases, HEE will supply the Secretary of State with any information he or she needs in a timely fashion. HEE will adhere to any conditions applied through the clearance process.

In the case of HEE's international work, HEE will consult the department before undertaking any activity with potential diplomatic or other implications for government. HEE must secure consent from ministers and DHSC via the senior departmental sponsor before entering into a memorandum of understanding with a foreign government.

## **Role of the department**

### **The responsible minister**

The Minister of State for Health will account for HEE on all matters concerning HEE in Parliament. The minister's statutory powers in respect of HEE are set out in the Care Act 2014. These are:

- setting HEE's objectives on an annual basis
- holding HEE to account through quarterly accountability meetings – normally chaired by the responsible minister or the senior departmental sponsor (SDS)
- setting an education outcomes framework tri-annually
- appointing a chair and 6 non-executive directors (NEDs)

### **Appointments to the board**

The chief executive of HEE is appointed by the HEE board under section 1C of schedule 5 of the Care Act 2014 with the approval of the responsible minister. The responsible minister shall have the following appointment and approval rights in relation to HEE's board:

- the chairperson is appointed by the responsible minister under section 1(1A) of schedule 5 of the Care Act 2014
- non-executive members are appointed by the responsible minister under section 1(1B) of schedule 5 of the Care Act 2014
- HEE is included in the schedules of the [Public Appointments \(No2\) Order in Council 2019](https://publicappointmentscommissioner.independent.gov.uk/regulating-appointments/orders-in-council/) (<https://publicappointmentscommissioner.independent.gov.uk/regulating-appointments/orders-in-council/>) and these appointments must therefore be made in accordance with the [Governance Code on Public Appointments](https://www.gov.uk/government/publications/governance-code-for-public-appointments) (<https://www.gov.uk/government/publications/governance-code-for-public-appointments>) - the appointment process is regulated by the Commissioner for Public Appointments-
- all such appointments should have regard to the principle that appointments should reflect the diversity of the society in which we live, and appointments should be made taking account of the need to appoint boards which include a balance of skills and backgrounds
- the chair and NEDs would normally only serve up to a maximum of 2 terms – legislation requires that they can be appointed for a maximum of 4 years per term and can serve for no more than 10 years in the role
- HEE Regulations 2014 set out that the HEE board must include at least 3 clinicians; a doctor, nurse, midwife or nurse associate and another regulated healthcare professional; these can be either be executive directors or non-executive members

## Other ministerial powers and responsibilities

The minister is also responsible for:

- the policy framework within which HEE operates
- setting the performance framework within which HEE will operate including HEE's strategy and annual plan



- matters regarding spending approvals, acquisitions, disposals, and joint ventures in line with delegations set out in the delegation letter
- such other matters as may be appropriate and proportionate

## The principal accounting officer

The principal accounting officer (PAO) is the Permanent Secretary of DHSC.

The PAO of DHSC designates the chief executive as HEE's accounting officer and ensures that they are fully aware of their responsibilities. The PAO issues a letter appointing the accounting officer, setting out his or her responsibilities and delegated authorities.

The respective responsibilities of the PAO and accounting officers for ALBs are set out in chapter 3 of Managing Public Money.

The PAO is accountable to Parliament for the issue of any grant-in-aid to HEE.

The PAO is also responsible, usually via the sponsorship team, for advising the responsible minister on:

- an appropriate framework of objectives and targets for HEE in the light of the department's wider strategic aims and priorities
- an appropriate budget for HEE in the light of the sponsor department's overall public expenditure priorities
- how well HEE is achieving its strategic objectives and whether it is delivering value for money
- the exercise of the ministers' statutory responsibilities concerning HEE as outlined above.

The PAO via the sponsorship team is also responsible for ensuring arrangements are in place in order to:

- monitor HEE's activities and performance
- address significant problems in HEE, making such interventions as are judged necessary
- periodically and at such frequency as is proportionate to the level of risk carry out an assessment of the risks both to the department and HEE's objectives and activities in line with the wider departmental risk assessment process
- inform HEE of relevant government policy in a timely manner

- bring ministerial or departmental concerns about the activities of HEE to the full HEE board, and as appropriate, to the departmental board requiring explanations and assurances that appropriate action has been taken

## **The role of the sponsorship team**

The HEE sponsor team in DHSC is the primary contact for HEE. The responsible senior civil servant for this relationship is the director of workforce. They are the main source of advice to the responsible minister on the discharge of their responsibilities in respect of HEE. They also support the PAO on their responsibilities towards HEE.

Officials of the HEE sponsor team will liaise regularly with HEE officials to review performance against plans, achievement against targets and expenditure against its departmental expenditure limits (DEL) and annually managed expenditure (AME) allocations. The sponsor team will also take the opportunity to explain wider policy developments that might have an impact on HEE.

## **Resolution of disputes between HEE and department**

Any disputes between the department and HEE will be resolved in as timely a manner as possible. The department and HEE will seek to resolve any disputes through an informal process in the first instance.

If this is not possible, then a formal process, overseen by the SDS, will be used to resolve the issue. Failing this, the SDS will ask the relevant policy director general to oversee the dispute.

They may then choose to ask the permanent secretary to nominate a non-executive member of the department's board to review the dispute, mediate with both sides and reach an outcome, in consultation with the Secretary of State.

## **Freedom of information requests**

Where a request for information is received by either party under the Freedom of Information Act 2000, or the Data Protection Act 1998 or 2018, the party receiving the request will consult with the other party prior to any disclosure of information that may affect the other party's responsibilities.

## **Reporting on legal risk and litigation**

HEE shall provide a quarterly update to the sponsor on the existence of any active litigation and any threatened or reasonably anticipated litigation. The parties acknowledge the importance of ensuring that legal risks are communicated

appropriately to the sponsor in a timely manner.

In respect of each substantial piece of litigation involving the ALB, the parties will agree a litigation protocol which will include specific provisions to ensure appropriate and timely reporting on the status of the litigation and the protection of legally privileged information transmitted to the sponsor to facilitate this. Until such time as a protocol is agreed, the parties will ensure that:

- material developments in the litigation are communicated to the sponsor in an appropriate and timely manner
- legally privileged documents and information are clearly marked as such
- individual employees handling the legally privileged documents are familiar with principles to which they must adhere to protect legal privilege and
- circulation of privileged information within government occurs only as necessary

## HEE governance and structure

### The chief executive

#### Responsibilities of HEE chief executive as accounting officer

The chief executive as accounting officer (AO) is personally responsible for safeguarding the public funds for which they have charge; for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds; and for the day-to-day operations and management of HEE.

In addition, they should ensure that HEE as a whole is run on the basis of the standards, in terms of governance, decision making and financial management, that are set out in Box 3.1 of MPM. These responsibilities include the below and those that are set in the accounting officer appointment letter issued by the PAO of the sponsor department.

#### Responsibilities for accounting to Parliament and the public

Responsibilities to Parliament and the public include:

- signing the accounts and ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State

- preparing and signing a governance statement covering corporate governance, risk management and oversight of any local responsibilities, for inclusion in the annual report and accounts
- ensuring that effective procedures for handling complaints about HEE in accordance with the Parliamentary and Health Service Ombudsman's principles of good complaint handling are established and made widely known within HEE and published on HEE's website
- acting in accordance with the terms of MPM and other instructions and guidance issued from time-to-time by the department, the Treasury and the Cabinet Office
- ensuring that as part of the above compliance they are familiar with and act in accordance with; any governing legislation, this framework document, any delegation letter issued to HEE any elements of any settlement letter issued to the sponsor department that is relevant to the operation of HEE and any separate settlement letter that is issued to the ALB from the sponsor department
- ensuring they have appropriate internal mechanisms for monitoring, governance and external reporting regarding compliance with any conditions arising from the above documents
- giving evidence, normally with the PAO, when summoned before the Public Accounts Committee (PAC) on the ALB's stewardship of public funds

## **Responsibilities to DHSC**

Responsibilities to DHSC include:

- establishing, in agreement with the department, HEE corporate and business plans in the light of the department's wider strategic aims and agreed priorities
- informing the department of progress in helping to achieve the department's policy objectives and in demonstrating how resources are being used to achieve those objectives
- ensuring that timely forecasts and monitoring information on performance and finance are provided to the department; that the department is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the department in a timely fashion

## **Responsibilities to the board**

The chief executive is responsible for:

- advising the board on the discharge of HEE board's responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time
- advising the board on HEE performance compared with its aims and objectives
- ensuring that financial considerations are taken fully into account by the board at all stages in reaching and executing its decisions, and that financial appraisal techniques are followed

## **Managing conflicts**

The chief executive should follow the advice and direction of the board, except in very exceptional circumstances with a clear cut and transparent rationale for not doing so.

If the board, or its chairperson, is contemplating a course of action involving a transaction which the chief executive considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, is of questionable feasibility, or is unethical, the chief executive in their role as accounting officer should reject that course of action and ensure that the board have a full opportunity to discuss the rationale for that rejection.

Such conflicts should be brought to the attention of the principal accounting officer and the responsible minister as soon as possible.

Furthermore and if agreed with the responsible minister, the accounting officer must write a letter of justification to the chair of the board setting out the rationale for not following the advice and recommendation of the board and copy that letter to the treasury officer of accounts.

If the responsible minister agrees with the proposed course of action of the board it may be appropriate for the minister to direct the accounting officer in the manner as set out in Managing Public Money paragraph 3.6.6 onwards.

## **The board**

### **Composition of the board**

HEE will have a board in line with good standards of corporate governance and as set out in its establishing statute and in guidance as set out in Annex A. The role of the board shall be to run HEE, and to deliver the objectives, in accordance with the purposes as set out above, their statutory, regulatory, common law duties and their responsibilities under this framework document. Detailed responsibilities of the board shall be set out in the board terms of reference. Remuneration of the board will be disclosed in line with the guidance in the government Financial Reporting manual (FReM).

The board will consist of a chairperson together with the chief executive and 4 executive members that have a balance of skills and experience appropriate to directing HEE's business. For HEE there should be members who have experience of its business, operational delivery, corporate services such as HR, technology, property asset management, estate management, communications, performance management and clinical experience. This will include as an executive and voting board member an appropriately qualified finance director as described in Annex 4.1 of Managing Public Money. The board should include a majority of independent non-executive members to ensure that executive members are supported and constructively challenged in their role.

## **Board committees**

The board may set up such committees as necessary for it to fulfil its functions. As is detailed below, at a minimum this should include an audit and risk committee chaired by an independent and appropriately qualified non-executive member of the board.

While the board may make use of committees to assist its consideration of appointments, succession, audit, risk and remuneration it retains responsibility for, and endorses, final decisions in all of these areas. The chair should ensure that sufficient time is allowed at the board for committees to report on the nature and content of discussion, on recommendations, and on actions to be taken.

Where there is disagreement between the relevant committee and the board, adequate time should be made available for discussion of the issue with a view to resolving the disagreement. Where any such disagreement cannot be resolved, the committee concerned should have the right to report the issue to the sponsor team, principal accounting officer and responsible minister. They may also seek to ensure the disagreement or concern is reflected as part of the report on its activities in the annual report.

The chair should ensure board committees are properly structured with appropriate terms of reference. The terms of each committee should set out its responsibilities and the authority delegated to it by the board. The chair should ensure that committee membership is periodically refreshed and that individual independent non-executive directors are not over-burdened when deciding the chairs and membership of committees.

## Duties of the board

The board is specifically responsible for:

- establishing and taking forward the strategic aims and objectives of HEE consistent with its overall strategic direction and within the policy and resources framework determined by the Secretary of State
- providing effective leadership of HEE within a framework of prudent and effective controls which enables risk to be assessed and managed
- ensuring the financial and human resources are in place for HEE to meet its objective
- reviewing management performance
- ensuring that the board receives and reviews regular financial and management information concerning the management of HEE
- ensuring that it is kept informed of any changes which are likely to impact on the strategic direction of HEE or on the attainability of its targets, and determining the steps needed to deal with such changes and where appropriate bringing such matters to the attention of the responsible minister and principal accounting officer via the executive team, sponsorship team or directly
- ensuring that any statutory or administrative requirements for the use of public funds are complied with; that the board operates within the limits of its statutory authority and any delegated authority agreed with the sponsor department, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the board takes into account guidance issued by the sponsor department
- ensuring that as part of the above compliance they are familiar with; this framework document, any delegation letter issued to body as set out in paragraph 5.1; any elements of any settlement letter issued to the sponsor department that is relevant to the operation of the ALB; and any separate settlement letter that is issued to the ALB from the sponsor department; and that they have appropriate internal mechanisms for the monitoring, governance and external reporting regarding any conditions arising from the above documents and ensure that the chief executive and HEE as a whole act in accordance with their obligations under the above documents

- demonstrating high standards of corporate governance at all times, including by using the independent audit committee to help the board to address key financial and other risks
- appointing with the responsible minister's approval a chief executive and, in consultation with the department, set performance objectives and remuneration terms linked to these objectives for the chief executive which give due weight to the proper management and use and utilization of public resources
- contributing through the provision of 360 degree feedback to the independent appraisal and annual evaluation of HEE chair undertaken by the SDS
- determining all such other things which the board considers ancillary or conducive to the attainment or fulfilment by HEE of its objectives

The board should ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control.

The board should make a strategic choice about the style, shape and quality of risk management and should lead the assessment and management of opportunity and risk. The board should ensure that effective arrangements are in place to provide assurance over the design and operation of risk management, governance and internal control in line with the [Management of Risk – Principles and Concepts \(“The Orange Book”\)](https://www.gov.uk/government/publications/orange-book) (<https://www.gov.uk/government/publications/orange-book>).

The board must set up an audit and risk assurance committee chaired by an independent and appropriately qualified non-executive member to provide independent advice and ensure that the department's audit and risk assurance committee are provided with routine assurances with escalation of any significant limitations or concerns. The board is expected to assure itself of the adequacy and effectiveness of the risk management framework and the operation of internal control.

## **The chair's role and responsibilities**

The chair is responsible for leading the board in the delivery of its responsibilities. Such responsibility should be exercised in the light of their duties and responsibilities as set out in the chair's terms of appointment, included in their appointment letter, the statutory authority governing HEE, this document and the documents and guidance referred to within this document.

Communications between the HEE board and the responsible minister should normally be through the chair.



The chair is bound by the [Code of Conduct for Board Members of Public Bodies](https://www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies) (<https://www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies>), which covers conduct in the role and includes the [Nolan Principles of Public Life](https://www.gov.uk/government/publications/the-7-principles-of-public-life) (<https://www.gov.uk/government/publications/the-7-principles-of-public-life>).

In addition, the chair is responsible for:

- ensuring, including by monitoring and engaging with appropriate governance arrangements, that HEE affairs are conducted with probity
- ensuring that policies and actions support the responsible minister's wider strategic policies and where appropriate, these policies and actions should be clearly communicated and disseminated throughout HEE

The chair has the following leadership responsibilities:

- formulating the board's strategy
- ensuring that the board, in reaching decisions, takes proper account of guidance provided by the responsible minister or the department
- promoting the efficient and effective use of staff and other resources
- delivering high standards of regularity and propriety
- representing the views of the board to the general public

The chair also has an obligation to ensure that:

- the work of the board and its members are reviewed and are working effectively including ongoing assessment of the performance of individual board members with a formal annual evaluation and more in-depth assessments of the individual board members when being considered for re-appointment
- in conducting assessments the views of relevant stakeholders, including employees and the sponsorship team, are sought and considered
- the board has a balance of skills appropriate to directing HEE business
- that the chair and chief executive continually update their skills, knowledge and familiarity with HEE to fulfil their role both on the board and committees – this will include but not be limited to skills and training in relation to financial management and reporting requirements, risk management and the requirements of board membership within the public sector

- board members are fully briefed on terms of appointment, duties, rights and responsibilities
- they, together with the other board members, receive appropriate training on financial management and reporting requirements and on any differences that may exist between private and public sector practice
- the responsible minister is advised of HEE's needs when non-executive director board vacancies arise
- there is a board operating framework in place setting out the role and responsibilities of the board consistent with the government's Code of good practice for corporate governance

## Individual board members' responsibilities

Individual board members should:

- comply at all times with the code of conduct for board members of public bodies, which covers conduct in the role and includes the Nolan Principles of Public Life as well as rules relating to the use of public funds and to conflicts of interest
- demonstrate adherence to the [12 Principles of Governance for all Public Body Non-Executive Directors \(https://www.gov.uk/government/publications/public-bodies-non-executive-director-principles/12-principles-of-governance-for-all-public-body-neds\)](https://www.gov.uk/government/publications/public-bodies-non-executive-director-principles/12-principles-of-governance-for-all-public-body-neds)
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations
- comply with the board's rules on the acceptance of gifts and hospitality, and of business appointments
- act in good faith and in the best interests of HEE
- ensure they are familiar with any applicable guidance on the role of public sector executive or non-executive directors and boards that may be issued from time to time by the Cabinet Office, HM Treasury or wider government.

## Management and financial responsibilities and controls

## Delegated authorities

HEE's delegated authorities are set out in the delegation letter. This delegation letter may be updated and superseded by later versions which may be issued by the sponsor department in agreement with HM Treasury.

In line with Managing Public Money Annex 2.2 these delegations will be reviewed on an annual basis.

The ALB shall obtain the department's and where appropriate HM Treasury's prior written approval before:

- entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in HEE's annual budget as approved by the department
- incurring expenditure for any purpose that is or might be considered novel or contentious, or which has or could have significant future cost implications
- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the department
- making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required
- carrying out policies that go against the principles, rules, guidance and advice in MPM

## Spending authority

Once the budget has been approved by the sponsor department HEE shall have authority to incur expenditure approved in the budget without further reference to the sponsor department, on the following conditions:

- HEE shall comply with the delegations set out in the delegation letter – these delegations shall not be altered without the prior agreement of the sponsor department and as agreed by HM Treasury and Cabinet Office as appropriate
- HEE shall comply with Managing Public Money regarding novel, contentious or repercussive proposals
- inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously

agreed

- HEE shall provide the sponsor department with such information about its operations, performance, individual projects or other expenditure as the sponsor department may reasonably require

## **Banking and managing cash**

HEE must maximise the use of publicly procured banking services (accounts with central government commercial banks managed centrally by government banking).

HEE should only hold money outside government banking service accounts where a good business case can be made for doing so and HM Treasury consent is required for each account to be established. Only commercial banks which are members of relevant UK clearing bodies may be considered for this purpose.

Commercial accounts where approved should be operated in line with the principles as set out in Managing Public Money.

The accounting officer is responsible for ensuring HEE has a banking policy as set out in MPM and ensuring that policy is complied with.

## **Procurement**

HEE shall ensure that its procurement policies are aligned with and comply with any relevant UK or other international procurement rules and in particular the Public Contracts Regulations 2015.

HEE shall establish its procurement policies and document these in a procurement policy and procedures manual.

In procurement cases where HEE is likely to exceed its delegated authority limit, procurement strategy approval for the specific planned purchase must be sought from the department's sponsor team.

Goods, services and works should be acquired by competition. Proposals to let single-tender or restricted contracts shall be limited and exceptional, and a quarterly report explaining those exceptions should be sent to the department.

Procurement by HEE of works, equipment, goods, and services shall be based on a full option appraisal and value for money (VfM), that is, the optimum combination and whole life costs and quality (fitness for purpose).

HEE shall:

- engage fully with department and government-wide procurement initiatives that seek to achieve VfM from collaborative projects
- comply with all relevant procurement policy notes issued by Cabinet Office
- co-operate fully with initiatives to improve the availability of procurement data to facilitate the achievement of VfM

HEE shall comply with the [Commercial](https://www.gov.uk/government/publications/commercial-operating-standards-for-government) (<https://www.gov.uk/government/publications/commercial-operating-standards-for-government>) and [Grants](https://www.gov.uk/government/publications/grants-standards) (<https://www.gov.uk/government/publications/grants-standards>) standards. These standards apply to the planning, delivery, and management of government commercial activity, including management of grants in all departments and arm's length bodies, regardless of commercial approach used and form part of a suite of functional standards that set expectations for management within government.

## Risk management

HEE shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and develop a risk management strategy, in accordance with the Treasury guidance management of risk: principles and concepts; including sharing a risk register with the sponsor team quarterly.

## Counter fraud and theft

HEE should adopt and implement policies and practices to safeguard itself against fraud and theft.

HEE should act in line with guidance as issued by the counter fraud function and in compliance with the procedures and considerations as set in in MPM annex 4.9 and [counter fraud functional standard](https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud) (<https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud>). It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter a contract or to provide grant or grant-in-aid.

HEE should keep records of, and prepare and forward to the department an annual report on, fraud and theft suffered by HEE, and notify the sponsor department of any unusual or major incidents as soon as possible. HEE should also report detected loss from fraud, bribery, corruption and error, alongside associated recoveries and prevented losses, to the counter fraud centre of expertise in line with the agreed government definitions as set out in the [counter fraud functional standard](https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud) (<https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud>).

## Staff

### Broad responsibilities for staff

Within the arrangements approved by the responsible minister, HEE will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that:

- the rules for recruitment and management of staff create an inclusive culture in which diversity is fully valued; appointment and advancement is based on merit – there is no discrimination against employees with protected characteristics under the Equality Act 2010
- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness
- the performance of its staff at all levels is satisfactorily appraised and HEE performance measurement systems are reviewed from time to time
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve HEE's objectives
- proper consultation with staff takes place on key issues affecting them
- adequate grievance and disciplinary procedures are in place
- whistle-blowing procedures consistent with the Public Interest Disclosure Act are in place
- a code of conduct for staff is in place, based on the Cabinet Office's Model Code for Staff of Executive Non-departmental Public Bodies (see [Public bodies: A guide for departments \(https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance\)](https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance), Chapter 5 Annex A).

### Staff costs

Subject to its delegated authorities, HEE shall ensure that the creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them. HEE will comply with any departmental or government-wide recruitment controls as applicable to NHS employing organisations.

### Pay and conditions of service

HEE's staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by the sponsor department and the Treasury. HEE has no delegated power to amend these terms and conditions.

Staff terms and conditions should be set out in an Employee Handbook, which should be provided to the department together with subsequent amendments.

HEE shall abide by public sector pay controls, including the relevant approvals process dependent on the organisations classification as detailed in the [Senior Pay Guidance \(https://www.gov.uk/government/publications/senior-civil-service-pay-and-reward\)](https://www.gov.uk/government/publications/senior-civil-service-pay-and-reward) and the [public sector pay and terms guidance \(https://www.gov.uk/government/publications/public-sector-pay-and-terms-guidance-note\)](https://www.gov.uk/government/publications/public-sector-pay-and-terms-guidance-note).

Many of HEE's staff are employed on agenda for change terms and conditions. Agenda for change staff remuneration is subject to the government response to the recommendations of the NHS pay review body. Where staff are employed on medical or dental terms and conditions, remuneration is subject to the government's response to the review body on doctors' and dentists' remuneration's recommendations.

Executive and senior Managers in HEE are subject to the department's pay framework for executive and senior managers in arm's length bodies and may be subject to additional governance as specified by the department. From the 2022 to 2023 pay round, decisions on the annual pay award for executive and senior managers in the NHS will be made based on the government's response to the Senior Salaries Review Body recommendations

HEE shall operate a performance-related pay scheme that shall form part of the annual aggregate pay budget approved by the department/or the general pay structure approved by the department and HM Treasury.

The travel and subsistence expenses of board members shall be tied to the rates allowed to senior staff of the ALB. Members may claim reimbursement for reasonable expenses necessarily incurred on official business. Payments are taxable as earnings and will be subject to tax and national insurance.

### **Pensions, redundancy and compensation**

Compensation scheme rules and pension scheme rules shall reflect legislative and HM Treasury guidance requirements regarding exit payments.

Most HEE staff are eligible for the NHS pensions scheme, which is administered by the NHS Business Authority and has rules set down in legislation. Staff may opt out of this occupational pension scheme, but that employers' contribution to any personal pension arrangement, including stakeholder pension shall normally be limited to the national insurance rebate level.

Any proposal for HEE to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the department. Proposals on severance shall comply with the rules in chapter 4 of MPM.

HEE shall seek approval for single redundancies with capital costs over £100,000 or 10 or more redundancies, irrespective of capitalised costs or any case where it is seeking the application of an exemption to the regulations, to the department's governance and assurance committee. These applications will need approval from the HEE sponsor team before being considered by the committee.

### **Recruitment of senior staff**

HEE shall seek approval from the department's remuneration committee for recruiting to executive and senior managers posts or paying above the relevant ceilings in the executive and senior managers' pay framework. All applications will need approval from the HEE sponsor team before being considered by the committee.

## **Business plans, financial reporting and management information**

### **Mandate, corporate and business plans**

Under section 100 of the Care Act 2014, the Secretary of State sets HEE's objectives on an annual basis. The objectives will be reviewed annually and re-published where any changes or additions are made. HEE will work jointly with NHS Improvement and England to develop its mandate. HEE and NHS Improvement's boards sign-off the draft mandate before approval by the secretary of state. This will ensure that workforce plans are more closely aligned with NHS service plans. The mandate also specifies the education outcomes that ministers expect HEE to achieve to deliver system wide improvements in education and training. Many of the deliverables in the mandate cannot be delivered by HEE alone but depend on strong partnerships with NHS delivery partners, the higher education sector and professional and regulatory bodies.

Before the start of each financial year, HEE shall submit annually to DHSC a draft of the corporate plan covering 3 years ahead. The draft should be submitted by 1 March. HEE shall agree with the department the issues to be addressed in the plan and the timetable for its preparation. The plan shall reflect HEE's statutory and/or other duties and, within those duties, the priorities set from time-to-time by the responsible minister (including decisions taken on policy and resources in the light



of wider public expenditure decisions). The plan shall demonstrate how HEE contributes to the achievement of the department's medium term plan and priorities and aligned performance metrics and milestones.

The first year of the corporate plan, amplified as necessary, shall form the business plan. The business plan shall be updated to include key targets and milestones for the year immediately ahead and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the department. Subject to any commercial considerations the corporate and business plans should be published by the ALB on its website and separately be made available to staff.

The following key matters should be included in the plans:

- key objectives and associated key performance targets for the forward years, and the strategy for achieving those objectives
- key non-financial performance target
- a review of performance in the preceding financial year, together with comparable outturns for the previous 2 years, and an estimate of performance in the current year
- alternative scenarios and an assessment of the risk factors that may significantly affect the execution of the plan but that cannot be accurately forecast and
- other matters as agreed between the department and HEE

## **Budgeting procedures**

Each year, in the light of decisions by the department on the updated draft corporate plan, the department will send to the ALB by an agreed date:

- a formal statement of the annual budgetary provision allocated by the department in the light of competing priorities across the department and of any forecast income approved by the department
- a statement of any planned change in policies affecting HEE

The approved annual business plan will take account both of approved funding provision and will include a budget of estimated payments and receipts together with a profile of expected expenditure and of draw-down of any departmental funding and/or other income over the year. These elements form part of the approved business plan for the year in question.

## Grant-in-aid and any ring-fenced grants

Any grant-in-aid provided by the department for the year in question will be voted in the department's supply estimate and be subject to Parliamentary control.

The grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. HEE will comply with the general principle, that there is no payment in advance of need. Cash balances accumulated during the course of the year from grant-in-aid or other exchequer funds shall be kept to a minimum level consistent with the efficient operation of the ALB. Grant-in-aid not drawn down by the end of the financial year shall lapse. Subject to approval by Parliament of the relevant estimates provision, where grant-in-aid is delayed to avoid excess cash balances at the year-end, the department will make available in the next financial year any such grant-in-aid that is required to meet any liabilities at the year end, such as creditors.

## Annual report and accounts

The HEE board shall publish annual reports of their activities, together with audited accounts after the end of the financial year. A draft of the report should be submitted to the department at least 2 weeks before the proposed publication date. The draft and finalised (audited) accounts should be provided to the department in line with the agreed annual timetable established by the department in order for the accounts to be consolidated within the department's accounts. These accounts should be prepared in accordance with the relevant statutes and specific accounts directions issued by the department, as well as with HM Treasury's [Financial Reporting Manual \(https://www.gov.uk/government/publications/government-financial-reporting-manual-2020-21\)](https://www.gov.uk/government/publications/government-financial-reporting-manual-2020-21).

The annual report and accounts must:

- cover any corporate, subsidiary or joint ventures under their control
- comply with the FReM and in particular have regard to the illustrative statements for an NDPB
- outline main activities and performance during the previous financial year and set out in summary form forward plans

Information on performance against key financial targets is included within the annual report and subject to the auditor's consistency opinion The report and accounts must be laid in Parliament and made available on HEE's website, in accordance with the guidance in the FReM Reporting Manual.

## Reporting performance to the department

The ALB shall operate management, information and accounting systems that enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the corporate and business plans.

HEE shall inform the sponsor department of any changes that make achievement of objectives more or less difficult. It shall report financial and non-financial performance, including performance in helping to deliver ministers' policies, and the achievement of key objectives regularly.

HEE's performance shall be formally reviewed by the department twice a year.

The responsible minister will meet the chair and chief executive once a year.

The PAO will meet the chief executive at least once a year.

## Information sharing

The department has the right of access to all HEE records and personnel for any purpose including, for example, sponsorship audits and operational investigations.

HEE shall provide the sponsor department with such information about its operations, performance, individual projects or other expenditure as the sponsor department may reasonably require.

The department and HM Treasury may request the sharing of data held by HEE in such a manner as set out in central guidance except insofar as it is prohibited by law. This may include requiring the appointment of a senior official to be responsible for the data sharing relationship.

As a minimum, HEE shall provide the department with information monthly that will enable the department satisfactorily to monitor:

- HEE's cash management
- its draw-down of grant-in-aid
- forecast outturn by resource headings
- other data required for the Online System for Central Accounting and Reporting (OSCAR)
- data as required in respect of its compliance with any Cabinet Office Controls pipelines or required in order to meet any condition as set out in any settlement letter

# Audit

## Internal audit

HEE shall:

- ensure that the sponsor department's internal audit team have complete access to all relevant records
- ensure that any arrangements for internal audit are in accordance with the public sector internal audit standards (PSIAS) as adopted by HM Treasury
- set up an audit committee of its board in accordance with the Code of good practice for corporate governance and the Audit and risk assurance committee handbook, forward the audit strategy, periodic audit plans and annual audit report, including the HEE Head of Internal Audit opinion on risk management, control and governance as soon as possible to the sponsor department
- forward the audit strategy, periodic audit plans and annual audit report, including HEE Head of Internal Audit opinion on risk management, control and governance as soon as possible to the sponsor department
- keep records of and prepare and forward to the department an annual report on fraud and theft suffered by HEE and notify the sponsor department of any unusual or major incidents as soon as possible
- will share with the sponsor department information identified during the audit process and the Annual Audit Opinion Report (together with any other outputs) at the end of the audit, in particular on issues impacting on the department's responsibilities in relation to financial systems within HEE

## External audit

The Comptroller and Auditor General (C and AG) audits HEE's annual accounts and lays them before Parliament, together with his report.

In the event that HEE has set up and controls subsidiary companies, HEE will (in the light of the provisions in the Companies Act 2006) ensure that the C and AG has the option to be appointed auditor of those company subsidiaries that it controls and/or whose accounts are consolidated within its own accounts. HEE shall discuss with the sponsor department the procedures for appointing the C and AG as auditor of the companies.

## The C and AG:

- will consult the department and the ALB on whom – the National Audit Office or a commercial auditor – shall undertake the audit(s) on his behalf, though the final decision rests with the C and AG
- has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, held by another party in receipt of payments or grants from HEE
- will share with the sponsor department information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues impacting on the department's responsibilities in relation to financial systems within HEE
- will consider requests from departments and other relevant bodies to provide Regulatory Compliance Reports and other similar reports at the commencement of the audit. Consistent with the C and AG's independent status, the provision of such reports is entirely at the C and AG's discretion

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

## External audit

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In the event that HEE has set up and controls subsidiary companies, HEE will (in the light of the provisions in the Companies Act 2006) ensure that the C and AG has the option to be appointed auditor of those company subsidiaries that it controls and/or whose accounts are consolidated within its own accounts. HEE shall discuss with the sponsor department the procedures for appointing the C and AG as auditor of the companies.

## The C and AG:

- will consult the department and the ALB on whom – the NAO or a commercial auditor – shall undertake the audit(s) on his behalf, though the final decision rests with the C and AG
- has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, held by another party in receipt of payments or grants from HEE
- will share with the sponsor department information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues impacting on the department’s responsibilities in relation to financial systems within HEE
- will consider requests from departments and other relevant bodies to provide Regulatory Compliance Reports and other similar reports at the commencement of the audit. Consistent with the C and AG’s independent status, the provision of such reports is entirely at the C and AG’s discretion

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## **Reviews and winding up arrangements**

### **Review of HEE’s status**

HEE will be reviewed as part of the wider Public Bodies Reviews programme, a time determined by the department’s ministers and PAO.

### **Arrangements in the event that HEE is wound up**

The sponsor department shall put in place arrangements to ensure the orderly winding up of HEE. In particular it should ensure that the assets and liabilities of HEE are passed to any successor organisation and accounted for properly. In the

event that there is no successor organisation, the assets and liabilities should revert to the sponsor department. To this end, the department shall:

- have regard to Cabinet Office guidance on winding up of ALBs
- ensure that procedures are in place in HEE to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body; specify the basis for the valuation and accounting treatment of HEE 's assets and liabilities
- ensure that arrangements are in place to prepare closing accounts and pass to the C and AG for external audit, and that, for non-Crown bodies funds are in place to pay for such audits. It shall be for the C and AG to lay the final accounts in Parliament, together with his report on the accounts
- arrange for the most appropriate person to sign the closing accounts. In the event that another ALB takes on the role, responsibilities, assets and liabilities, the succeeding ALB AO should sign the closing accounts. In the event that the department inherits the role, responsibilities, assets and liabilities, the sponsor department's AO should sign

HEE shall provide the department with full details of all agreements where HEE or its successors have a right to share in the financial gains of developers. It should also pass to the department details of any other forms of claw-back due to HEE.

## **Public and Parliamentary accountability**

The department and its arm's length bodies share responsibility for accounting to the public and to Parliament for policies, decisions and activities across the health and care sector. Accountability to Parliament shall often be demonstrated through oral and written Parliamentary questions, MPs' letters and appearances before Parliamentary committees. Accountability to the public may be through the publication of information on HEE 's website, as well as through responses to letters from the public and responses to requests under the Freedom of Information Act 2000.

The department and its ministers remain responsible to Parliament for the system overall, so lead in demonstrating this accountability even where HEE are also directly engaged (for example as witnesses in select committee hearings). HEE shall support the department in this role by working collaboratively to provide the information that ministers need to account to Parliament in line with Parliamentary protocols and relevant legislation. The department has overall responsibility for

ensuring that appropriate governance arrangements are in place to ensure that robust performance standards are in place and met. These shall include (as a minimum) quarterly assurance meetings with relevant teams in HEE to discuss overall compliance with the standards.

Where any information required by the department for parliamentary and public accountability purposes is held by one or more other Arm's length bodies, and none is the obvious lead, the department shall be responsible for commissioning and co-ordinating all contributions from the other bodies and ensure that there are no unallocated issues.

The department and HEE shall maintain and share openly within their respective organisations lists of named contacts, resources and processes to deal with the handling of public and Parliamentary work as outlined in this section. Agreed performance standards are in place and shall be reviewed from time to time. These will reflect government and Parliamentary policies but will also be realistic and achievable for HEE.

Where these standards are not met, the department will apply a proportionate escalation process with HEE so that the issues are resolved as quickly as possible.

## **Parliamentary accountability**

### **Parliamentary questions, ministerial correspondence and other briefings**

The department shall:

- send clear, unambiguous commissions for information to support answers to Parliamentary questions, ministerial correspondence and briefings, allowing as much time as possible within Parliamentary and other timescales so that HEE can provide the information required, as well as allowing ministers time to consider and meet their obligations to Parliament
- ensure an appropriate level of senior civil service oversight is applied to HEE contributions sent to the department

HEE shall:

- provide clear and comprehensive contributions so that ministers can meet their obligations in Parliament and under the ministerial code
- build capacity and capability to ensure that contributions are clear, relevant and otherwise fit for purpose



- ensure that there is sufficient resource and appropriate internal governance to ensure that contributions are timely, and have been subject to appropriate quality assurance and senior clearance
- where there is a valid reason for not providing a contribution that has been requested by the department, provide a clear explanation as quickly as possible after receipt of the commissioning email
- where they have the information, release it unless a Freedom of Information exemption applies
- where information is held by the wider NHS system, collect this information on the department's behalf unless the disproportionate cost Freedom of Information exemption applies

As HEE do not have service level agreements with other NHS organisations, it is understood that this may mean that Freedom of Information responses cannot be provided within expected timeframes, but delays should be kept to a minimum.

### **Wider Parliamentary engagement**

In addition to responding to Parliamentary questions and correspondence from MPs and peers, ministers are required to demonstrate accountability for the NHS to Parliament in a number of other ways. HEE shall therefore provide the department with information to support debates and other Parliamentary activity, including likely questions and answers, and relevant background briefing as appropriate. In engaging with Parliament, ministers shall take every opportunity to explain relevant organisational responsibilities and encourage MPs and peers to liaise directly with HEE on matters for which it has responsibility.

### **Select committees**

Parliamentary select committees often require written or oral evidence from departmental ministers or officials and from HEE co-ordinators for both organisations shall ensure that comprehensive and consistent information is provided from the department and HEE, while allowing for the different perspectives, roles and responsibilities of the respective organisations.

### **National Audit Office and Public Accounts Committee**

Public accounts committee (PAC) inquiries supported by National Audit Office (NAO) reports follow a different process from other select committees. In the case of NAO reports, the department and HEE shall share their individual clearance

documents with each other and liaise, where relevant, on negotiating factual changes to reports before publication. For government responses to PAC recommendations, the department and HEE shall:

- work closely together to prepare agreed responses, which take the form of an HM Treasury Minute, and take steps to implement those recommendations which are accepted, reporting on their progress via the bi-annual HM Treasury Minute Progress Reports, both of which are subject to strictly-prescribed formats and timescales
- ensure timely involvement at a sufficiently senior level on both sides to meet HM Treasury's deadlines and to allow time for clearance by the PAO and HEE it's accounting officers

The PAO shall be sighted on all direct correspondence between HEE and the Public Accounts Committee.

### **All-Party Parliamentary groups**

The department and HEE shall sometimes be approached to provide briefing, written and oral evidence by All-Party Parliamentary Groups on specific issues. These groups do not have the formal status of Parliamentary Select Committees, but the department and HEE shall be helpful in providing them with information. It may not always be possible for very senior staff to meet all requests to attend meetings, so alternatives such as written briefings or meetings with senior staff below board level may be suggested instead.

### **Correspondence from MPs**

MPs and peers normally write directly to ministers, who shall respond personally or arrange for another minister to respond if appropriate. Where correspondence sent to ministers relates wholly to the business of HEE, the minister shall normally signpost the MP or peer directly to them. If the matter is deemed sensitive and therefore is more appropriately responded to by ministers personally, the department shall discuss and agree the most appropriate handling approach with HEE.

Where MPs or peers choose to correspond directly with the chairs, chief executives, or another official in HEE about matters relating to their business, HEE shall normally respond directly. It is usual for the addressee to reply personally, but this shall be a matter for HEE.

Should an MP or peer correspond directly with HEE on an issue that is for the department, they shall reply to explain this and recommend that the MP or peer write directly to ministers. Where an MP or peer writes to both the department and

to HEE in parallel on the same matter, the department and HEE shall discuss and agree the most appropriate handling.

### **Requests for meetings from MPs and peers**

Where an MP or peer requests a meeting on a specific issue, the request shall normally be addressed to ministers and shall be handled by the department, which shall commission supporting information from HEE and agree timescales as appropriate. It is possible that an MP or peer may seek a meeting with officials from HEE directly if the issue is about their business. These shall be accepted and handled by HEE without input from the department, but if any issues raised relate to matters for the department, this shall be made clear and the MP or peer advised to contact ministers.

## **Public accountability**

### **Correspondence (including emails and other digital correspondence) and telephone enquiries from members of the public**

The Data Protection Act prevents the department from routinely forwarding correspondence from individuals to other organisations. It shall therefore respond to all such correspondence, advising the writer to contact HEE on matters that are about their business. HEE shall similarly reply to all letters and emails from members of the public addressed to the department. If the correspondence covers areas that are a matter for the department, the response shall explain this and signpost them to the department.

### **Freedom of Information Act 2000**

The department and HEE, as public authorities, each have a legal duty to respond to all Freedom of Information requests submitted to them, in full accordance with the specific requirements and exemptions set out in law. This includes:

- having in place an approved publication scheme and ensuring that they have nominated a 'qualified person' to determine whether it is appropriate to reject a request for information on the basis of section 36 of the Freedom of Information Act
- meeting the Freedom of Information Act duty to assist and advise people who have made an information request or are planning to do so
- signposting requesters to the appropriate organisation where appropriate, but there shall be no onward referral of cases received

Although HEE handle information requests of them independently, the department's Freedom of Information team shall provide informal, impartial advice on relevant legislation and duties if requested to do so. It shall also offer advice on the release of sensitive information that originated in the department. In cases where responding to a request would involve releasing papers relating to a previous government administration, HEE shall be mindful of the Ministry of Justice guidance on the handling of papers of a previous administration and always seek guidance from the department on handling. Any requests for advice of the department shall be made at the earliest opportunity to ensure that replies can be sent within the legal timescale set for them.

In the event of the department responding to a Freedom of Information request with information that it considers to be relevant, or of interest to HEE, the department shall inform HEE about the release of the information in sufficient time to ensure consistency and, if necessary, prepare appropriate media handling. Similarly, HEE shall inform the department about the release of such information in sufficient time to ensure consistency and, if necessary, prepare appropriate media handling.

Where a request for information is received by either organisation under the Freedom of Information Act 2000, the organisation receiving the request shall consult with the other party prior to any disclosure of information that may affect the other party's responsibilities.

### **Subject access requests**

The UK General Data Protection Regulation and Data Protection Act 2018 apply. If the department receives a request under the relevant legislation for access to personal data, or a request to stop processing personal data and it holds the data, the department shall respond to the request. If the department does not hold the data, it shall advise the applicant to contact HEE. There shall be no onward referral of requests between organisations. HEE shall also consult with each other before disclosing any information in response to a request that may affect their respective responsibilities.

### **Complaints and whistleblowing**

HEE, as with the department and all its ALBs, has whistleblowing policies and procedures in place that comply with the Public Interest Disclosure Act 1998 and best practice guidance. The Act prohibits the use of confidentiality clauses that seek to prevent staff from speaking out on issues of public interest.

## **Other matters**

### **Equalities and other legal duties**

The public sector equality duty requires all public bodies, including HEE (as a public body) to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under Equality Act 2020
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The provisions of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 require HEE, as a public body, to meet the following requirements:

- annually publish gender pay gap reporting information
- annually publish information to demonstrate compliance with the public sector equality duty
- ensure that the equality information published annually includes information relating to persons who share a relevant protected characteristic who are (a) its employees and (b) other persons affected by its policies and practices
- prepare and publish one or more objectives to be achieved in order to address one or more of the 3 equality aims set out in public sector equality duty at least every 4 years - these shall be specific and measurable
- to publish the information in a manner that is accessible to the public

HEE also has other legal duties set out in the Care Act, including the duty to promote the NHS constitution.

HEE has a duty to co-operate with the NHS England and NHS Improvement, National Institute for Health and Care Excellence, NHS Digital and NHS Special Health Authorities.

## **Partnership working**

To support the development of their relationship, the department and HEE have agreed to a set of shared principles:

- working together with each other, and with the department's other ALBs, for patients, people who use services and the public, demonstrating our commitment to the values of the NHS set out in its constitution
- respect for the importance of autonomy throughout the system, and the freedom of individual organisations to exercise their functions in the way they consider most appropriate
- recognition that the Secretary of State is ultimately accountable to Parliament and the public for the system overall. HEE will support the department in the discharge of its accountability duties, and the department will support HEE in the same way
- working together openly and positively - this will include working constructively and collaboratively with other organisations within and beyond the health and social care system

The department and HEE will work together, and with the department's other arm's length bodies, in the interests of patients, people who use services and the public to maximise the health and wellbeing gain for the population, working to the values set out in the NHS Constitution. To support this, HEE and the department will follow an 'open book' approach. In the case of issues with an impact on the development or implementation of policy, the department can expect to be kept informed by HEE.

In the same way, the department will seek to keep HEE apprised of developments in policy and government. There are likely to be some issues where the department or HEE will expect to be consulted by the other before the department or HEE makes either a decision or a public statement on a matter. The department and HEE will make clear which issues fall into this category in good time. The sponsor team will be responsible for ensuring that this works effectively.

To support the Secretary of State and the principal accounting officer in their accountability functions, HEE must provide the Secretary of State with such information relating to the exercise of its functions as he or she may request. It is therefore expected that the department will, when required, have full access to HEE's files and information. If necessary, the SDS's team will be responsible for prioritising these requests for information.

## **Relationships with the department's other arm's length bodies**

HEE work in partnership with the department, its other arm's length bodies and local government, in the interests of patients, people who use services and the public, to maximise the health and wellbeing gain for the population and working to the principles, values, rights, pledges, duties and responsibilities set out in the NHS Constitution.

The department and its arm's length bodies have complementary but distinct roles within the system to ensure that service users receive high quality services which deliver value for money.

## Transparency

HEE is an open organisation that carries out its activities transparently. It demonstrates this by proactively publishing on its website key information on areas including:

- pay
- diversity of the workforce,
- performance
- the way it manages public money
- the public benefits achieved through its activities
- supporting those who wish to use the data by publishing the information within [guidelines \(https://www.gov.uk/government/topics/government-efficiency-transparency-and-accountability\)](https://www.gov.uk/government/topics/government-efficiency-transparency-and-accountability) set by the Cabinet Office

HEE holds open board meetings in line with the Public Bodies (Admission to Meetings) Act 1960. HEE will publish an annual report. The annual report will include a governance statement, which is to be reviewed by the SDS.

To underpin the principles of good communication, 'no surprises' and transparency, HEE and the department have put in place arrangements for managing communications. Further details are provided in Annex B.

HEE's executive and non-executive board members operate within the general principles of the [corporate governance guidelines \(https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments\)](https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments) set out by HM Treasury. They will also comply with the [Cabinet Office's code of conduct for board members of public bodies \(https://www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies\)](https://www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies) and with HEE's rules on disclosure of financial interests, including those of board members.

HEE has developed a code of conduct for all staff which will comply with the principles in the Cabinet Office's model code for staff of executive non-departmental public bodies (see [Public bodies: A guide for departments \(https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance\)](https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance), Chapter 5 Annex A), which includes rules on conflicts of interest, political activity and restrictions on lobbying.

HEE will take all necessary measures to ensure that:

- patient, personal and/or sensitive information within its care and control is well managed and protected through all stages of its use, including through compliance with the Data Protection Act
- it provides public assurance in respect of its information governance practice by completing and publishing an annual information governance assessment using an agreed assessment mechanism
- it meets its legal obligations for records management, accountability and public information by compliance with relevant standards, including government and NHS codes of practice on confidentiality, security and records management

HEE's Senior Information Risk Owner and Caldicott Guardian will work together to ensure that both patient and other personal information are handled in line with best practice in government and the wider public sector.

## Sustainability

As a major public sector body, HEE has a key role to play in driving forward government's commitment to sustainability. As a minimum, HEE shall comply with the [Greening Government Commitments for 2021 to 2025 \(https://www.gov.uk/government/publications/greening-government-commitments-2021-to-2025/greening-government-commitments-2021-to-2025\)](https://www.gov.uk/government/publications/greening-government-commitments-2021-to-2025/greening-government-commitments-2021-to-2025), which apply to the office and non-office estate of central government departments and their executive agencies (EAs), non-ministerial departments (NMDs) and executive non-departmental public bodies (NDPBs), unless specifically exempted, and set out the actions they will take to reduce their impacts on the environment.

## Communications responsibilities

This section sets out the basic principles guiding co-operation and collaborative working between DHSC and its ALBs, across all aspects of communication and marketing activities, to deliver impactful and cost-effective communications in the context of our shared accountability to Parliament and the public. The principles



include regular collaboration and information sharing between the DHSC and ALB communications teams to ensure communications are aligned and to amplify their impact.

All ALBs have committed to undertaking this collaboration and information sharing in a timely manner ahead of content being shared with the public, workforce, media or other stakeholders to ensure that as a system, we are communicating with the public, workforce and our stakeholders in a coordinated manner so as not to confuse or undermine another part of the system.

To achieve this, the DHSC and ALB communications teams will have regular check in points, including for the heads of communications and media and marketing teams, to agree communication plans. In particular, ALBs and DHSC will give each other sufficient advance notice of public-facing communications to allow for necessary clearances with the relevant teams as set out in the Communications and Marketing Guidance annex of the ALB Schedule of Delegations.

## Annex A - Guidance

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

### General

See:

- Framework agreement between Department of Health and Social Care and Health Education England (this document)
- appropriate adaptations of sections of [Corporate Governance for Central Government Departments: Corporate Governance Code 2017](https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017) (<https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017>) and its related guidance
- [Code of conduct for board members of public bodies](https://www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies) (<https://www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies>)
- [Managing Public Money](https://www.gov.uk/government/publications/managing-public-money) (<https://www.gov.uk/government/publications/managing-public-money>)

- [Public Sector Internal Audit Standards](https://www.gov.uk/government/publications/public-sector-internal-audit-standards)  
(<https://www.gov.uk/government/publications/public-sector-internal-audit-standards>)  
(PSIAS)
- [Orange Book](https://www.gov.uk/government/publications/orange-book) (<https://www.gov.uk/government/publications/orange-book>) Management of risk principles and concepts
- [Government Financial Reporting Manual](https://www.gov.uk/government/publications/government-financial-reporting-manual-2020-21)  
(<https://www.gov.uk/government/publications/government-financial-reporting-manual-2020-21>) (FReM)
- relevant [Dear Accounting Officer letters](https://www.gov.uk/government/collections/dao-letters)  
(<https://www.gov.uk/government/collections/dao-letters>) (DAO Letters)
- [Counter fraud functional standard](https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud)  
(<https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud>)
- the Parliamentary and Health Service Ombudsman's [Principles of Good Administration](https://www.ombudsman.org.uk/about-us/our-principles/principles-good-administration) (<https://www.ombudsman.org.uk/about-us/our-principles/principles-good-administration>)
- [Partnerships between departments and ALBs: Code of Good Practice](https://www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice)  
(<https://www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice>)
- appropriate adaptations of sections of the Model Code for Staff of Executive non-departmental public bodies (Cabinet Office) (see [Public bodies: A guide for departments](https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance) (<https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance>), Chapter 5, Annex A)
- relevant Freedom of Information Act guidance and instructions (Ministry of Justice)
- Consolidation Officer memorandum, and relevant DCO letters
- other relevant guidance and instructions issued by HM Treasury in respect of Whole of Government Accounts
- other relevant instructions and guidance issued by the central departments
- specific instructions and guidance issued by the department, including requests for information
- any departmental plans to ensure continuity of services

- recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the government
- in line with Managing Public Money, have regard to the relevant [functional standards \(https://www.gov.uk/government/collections/functional-standards\)](https://www.gov.uk/government/collections/functional-standards)

## Specific areas in agreement

### The role of the sponsorship team

See:

- [Partnerships between departments and ALBs: Code of Good Practice \(https://www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice\)](https://www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice)

### Accounting officers

See:

- [Managing Public Money \(https://www.gov.uk/government/publications/managing-public-money\)](https://www.gov.uk/government/publications/managing-public-money), Chapter 3
- relevant [Dear Accounting Officer letters \(https://www.gov.uk/government/collections/dao-letters\)](https://www.gov.uk/government/collections/dao-letters) (DAO Letters)

### Governance and accountability

See:

- [Corporate Governance Code for Central Government Departments 2017 \(https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017\)](https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017)
- relevant [functional standards \(https://www.gov.uk/government/collections/functional-standards\)](https://www.gov.uk/government/collections/functional-standards)
- [Managing Public Money \(https://www.gov.uk/government/publications/managing-public-money\)](https://www.gov.uk/government/publications/managing-public-money), The governance statement, Annex 3.1.

### Appointment and responsibilities of CE, board and chair

See:

- [Public Appointments No.2 Order in Council 2019](https://publicappointmentscommissioner.independent.gov.uk/regulating-appointments/orders-in-council/)  
(<https://publicappointmentscommissioner.independent.gov.uk/regulating-appointments/orders-in-council/>)
- [Governance Code on Public Appointments](https://www.gov.uk/government/publications/governance-code-for-public-appointments)  
(<https://www.gov.uk/government/publications/governance-code-for-public-appointments>)
- [The Seven Principles of Public Life](https://www.gov.uk/government/publications/the-7-principles-of-public-life) (<https://www.gov.uk/government/publications/the-7-principles-of-public-life>)
- The Parliamentary and Health Service Ombudsman's [Principles of good administration](https://www.ombudsman.org.uk/about-us/our-principles/principles-good-administration) (<https://www.ombudsman.org.uk/about-us/our-principles/principles-good-administration>)

## Individual board member responsibilities

See:

- [12 principles of governance for all public body NEDs](https://www.gov.uk/government/publications/public-bodies-non-executive-director-principles/12-principles-of-governance-for-all-public-body-neds)  
(<https://www.gov.uk/government/publications/public-bodies-non-executive-director-principles/12-principles-of-governance-for-all-public-body-neds>)

## Delegated and spending authorities

See:

- [Managing Public Money](https://www.gov.uk/government/publications/managing-public-money) (<https://www.gov.uk/government/publications/managing-public-money>), Delegated authorities, Annex 2.2 and other appropriate sections
- DHSC delegations letter.
- [Grants standard](https://www.gov.uk/government/publications/grants-standards) (<https://www.gov.uk/government/publications/grants-standards>)

## Procurement

See:

- [Commercial Operating Standards for Government](https://www.gov.uk/government/publications/commercial-operating-standards-for-government)  
(<https://www.gov.uk/government/publications/commercial-operating-standards-for-government>)
- [Grants standard](https://www.gov.uk/government/publications/grants-standards) (<https://www.gov.uk/government/publications/grants-standards>)
- [The Public Contract Regulations 2015](https://www.legislation.gov.uk/uksi/2015/102/contents/made)  
(<https://www.legislation.gov.uk/uksi/2015/102/contents/made>)

## Risk management

See:

- [Orange Book \(https://www.gov.uk/government/publications/orange-book\)](https://www.gov.uk/government/publications/orange-book) Management of risk principles and concepts

## Counter fraud and theft

See:

- [Counter fraud functional standard \(https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud\)](https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud)
- [Managing Public Money \(https://www.gov.uk/government/publications/managing-public-money\)](https://www.gov.uk/government/publications/managing-public-money), Fraud, Annex 4.9

## Human Resources

See:

- DHSC [Pay Framework for Very Senior Managers \(https://www.gov.uk/government/publications/pay-framework-for-very-senior-managers\)](https://www.gov.uk/government/publications/pay-framework-for-very-senior-managers)
- pay and conditions of service [Civil Service management code \(https://www.gov.uk/government/publications/civil-servants-terms-and-conditions\)](https://www.gov.uk/government/publications/civil-servants-terms-and-conditions)
- [Guidance for approval of senior pay \(https://www.gov.uk/government/publications/senior-civil-service-pay-and-reward\)](https://www.gov.uk/government/publications/senior-civil-service-pay-and-reward)
- [Public Bodies: A guide for departments \(https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance\)](https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance), Chapter 5
- [Public sector pay and terms: guidance note \(https://www.gov.uk/government/publications/public-sector-pay-and-terms-guidance-note\)](https://www.gov.uk/government/publications/public-sector-pay-and-terms-guidance-note)
- [Managing Public Money \(https://www.gov.uk/government/publications/managing-public-money\)](https://www.gov.uk/government/publications/managing-public-money)

## Finance (banking and managing cash, annual report and accounts, audit)

See:

- [Government Financial Reporting Manual \(FReM\)](https://www.gov.uk/government/publications/government-financial-reporting-manual-2020-21)  
(<https://www.gov.uk/government/publications/government-financial-reporting-manual-2020-21>)
- [Public Sector Internal Audit Standards \(PSIAS\)](https://www.gov.uk/government/publications/public-sector-internal-audit-standards)  
(<https://www.gov.uk/government/publications/public-sector-internal-audit-standards>)
- [Managing Public Money](https://www.gov.uk/government/publications/managing-public-money) (<https://www.gov.uk/government/publications/managing-public-money>), Fees and charges guide, Chapter 6
- [Managing Public Money](https://www.gov.uk/government/publications/managing-public-money) (<https://www.gov.uk/government/publications/managing-public-money>), Banking and managing cash, Annex 5.6
- relevant [DAO letters](https://www.gov.uk/government/collections/dao-letters) (<https://www.gov.uk/government/collections/dao-letters>)

## **Arrangements in the event that the ALB is wound up**

See:

- [Public bodies: A guide for departments](https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance)  
(<https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance>), Chapter 10

## **DHSC specific**

### **Estates and sustainability**

See:

- [Greening Government Commitment targets](https://www.gov.uk/government/publications/greening-government-commitments-targets/greening-government-commitment-targets)  
(<https://www.gov.uk/government/publications/greening-government-commitments-targets/greening-government-commitment-targets>)
- Government Property Unit National property controls and standards for office accommodation (available from DHSC)
- the DHSC property asset management procedure

### **Information governance and security**

See:

- the NHS [Information Governance toolkit \(https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/data-security-and-protection-toolkit\)](https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/data-security-and-protection-toolkit)
- HMG IA Standard No. 6: Protecting Personal Data and Managing Information Risk (available from DH)
- HM Government's [Security Policy Framework \(https://www.gov.uk/government/publications/security-policy-framework\)](https://www.gov.uk/government/publications/security-policy-framework)
- [Information Security Management: NHS Code of Practice \(https://www.gov.uk/government/publications/information-security-management-nhs-code-of-practice\)](https://www.gov.uk/government/publications/information-security-management-nhs-code-of-practice)
- [Confidentiality: NHS Code of Practice \(https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice\)](https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice)
- [NHS Records Management Code of Practice \(https://www.nhsx.nhs.uk/information-governance/guidance/records-management-code/#:~:text=The%20Records%20Management%20Code%20of%20Practice%20provides%20a,provision%20has%20an%20element%20of%20NHS%20funded%20care\)](https://www.nhsx.nhs.uk/information-governance/guidance/records-management-code/#:~:text=The%20Records%20Management%20Code%20of%20Practice%20provides%20a,provision%20has%20an%20element%20of%20NHS%20funded%20care)
- [NHS Data Security Protection Toolkit \(https://www.dsptoolkit.nhs.uk/OrganisationSearch\)](https://www.dsptoolkit.nhs.uk/OrganisationSearch)

## Transparency

See:

- appropriate sections of [Managing Public Money \(https://www.gov.uk/government/publications/managing-public-money\)](https://www.gov.uk/government/publications/managing-public-money)
- appropriate sections of this framework agreement (including communications responsibilities)

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