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Policy paper

# Framework agreement between the Department of Health and

# Social Care and NHS Business Services Authority

Published 28 September 2022

## **Applies to England**

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# Introduction and background

## Purpose of document

This framework agreement has been agreed between the Department of Health and Social Care (DHSC, or 'the department') and NHS Business Services Authority (NHSBSA) in accordance with HM Treasury's Handbook [Managing Public Money](https://www.gov.uk/government/publications/managing-public-money) (<https://www.gov.uk/government/publications/managing-public-money>) (as updated from time to time) and has been approved by HM Treasury.

It supersedes the previous framework agreement of 2018.

The framework agreement sets out the broad governance arrangements within which NHSBSA and the department operate. It sets out NHSBSA's core responsibilities; describes the governance and accountability framework that applies between the department and NHSBSA; and sets out how the day-to-day relationship works in practice, including in relation to governance and finance matters.

It focusses on how the 2 organisations work effectively in partnership to serve patients, members of the public and taxpayers.

It does not convey any legal powers or responsibilities, but all parties agree to operate within its terms.

References to NHSBSA include any subsidiaries and joint ventures that are classified to the public sector and central government for national accounts purposes. If NHSBSA establishes a subsidiary or joint venture, a document setting out the arrangements between the new organisation and NHSBSA will be agreed with the department.

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 NHSBSA's website.

This framework agreement 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 department. The latest date for review of this document is 2025.

## Objectives

The department and NHSBSA share the common objective to help people live more independent, healthier lives for longer.

NHSBSA supports the strategic aims of the health and social care system by acting as a delivery partner for DHSC policy teams and the wider health family, providing at-scale services to citizens, the NHS workforce and contractors and driving efficiency in the provision of these services.

## Classification

NHSBSA has been administratively classified by the Cabinet Office as a non-departmental public body and is a special health authority.

The ONS classification of NHSBSA is S1311, sub-section 'Central Government'.

# Purposes, duties and aims

## Purposes

NHSBSA is a special health authority established under the NHS Business Service Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005 (SI 2005/2414) and operating pursuant to directions.

NHSBSA's general purpose is to provide a range of critical services to the department and to NHS organisations, NHS contractors, patients and the public.

NHSBSA discharges this function by providing platforms and delivering services which support the priorities of the NHS, government and local health economies, once, nationally and at scale and by digitising and using leading-edge technology where appropriate.

## Powers and duties

NHSBSA's functions stem from a number of regulations and directions which can be found on [NHSBSA's website \(https://www.nhsbsa.nhs.uk/our-policies/governance-framework\)](https://www.nhsbsa.nhs.uk/our-policies/governance-framework).

NHSBSA discharges these functions by developing, managing and administering a number of services in 3 core operational areas:

- platforms and services provided to the NHS to best support its people
- services provided to support essential primary care functions
- services direct to the public to enable citizens to gain access to the healthcare and help with health costs to which they are entitled

## Aims

NHSBSA's strategic aims are, broadly, to:

- support health and care transformation
- prevent fraud, error and waste in the health system
- improve delivery of population health initiatives
- reduce health inequalities
- provide value for money, an efficient service and great experience for end users and other service stakeholders
- develop provider assurance networks
- provide services to and build capacity within the health and care workforce

And in doing so to improve health outcomes. Further detail is provided in NHSBSA's current strategy documents and business plan.

## Role of the department

### The responsible minister

The Secretary of State has ministerial responsibility for, and oversight of, NHS delivery and performance. This includes being accountable to Parliament on all matters concerning NHSBSA, including its functions and performance.

The Secretary of State's statutory powers in respect of the NHS are set out in the NHS Act 2006 and Health and Social Care Act 2012.

These are, in summary:

- promoting a comprehensive health service, free at the point of use
- having regard to reduction of inequalities in health service provision
- promotion of an evidence-based approach to the provision of services
- protection of public health

Through the exercise of his powers, and supported by the department, the Secretary of State:

- sets national priorities and monitors the whole system's performance to ensure it delivers what patients, people who use services and the wider public need and value most
- determines the level of resource allocations across the health and care system as a whole, including NHSBSA
- supports the integrity of the system by ensuring that funding, legislation and accountability arrangements protect the best interests of patients, the public and the taxpayer
- accounts to Parliament for NHSBSA's performance and the effectiveness of the health and care system overall
- provides direction to the NHS consistent with his legal duties
- appoints the chair and non-executive directors of NHSBSA in line with the [Governance Code for Public Appointments](https://www.gov.uk/government/publications/governance-code-for-public-appointments) (<https://www.gov.uk/government/publications/governance-code-for-public-appointments>)
- approves the appointment of its chief executive

## The principal accounting officer

The principal accounting officer is the Permanent Secretary of the department.

## Principal accounting officer's specific accountabilities and responsibilities

The principal accounting officer of the department has designated the chief executive of NHSBSA as accounting officer, ensuring he or she is fully aware of their responsibilities. The principal accounting officer issues a letter appointing the accounting officers, setting out their responsibilities and delegated authorities.

The respective responsibilities of the principal accounting officer and accounting officers are set out in Chapter 3 of Managing Public Money.

The principal accounting officer is accountable to Parliament for the issue of grant-in-aid to NHSBSA. The principal accounting officer, usually via the sponsor team (or finance team where appropriate), is also responsible for advising the Secretary of State on:

- an appropriate framework of objectives and targets for NHSBSA in line with the department's wider strategic aims and priorities

- an appropriate budget for NHSBSA in light of the department's overall public expenditure priorities
- how well NHSBSA is achieving its strategic objectives and whether it is delivering value for money

The principal accounting officer via the sponsor team is also responsible for ensuring arrangements are in place to:

- monitor NHSBSA's activities and performance
- address significant problems in NHSBSA, making such interventions as are judged necessary
- periodically and at a frequency that is proportionate to the level of risk, carry out an assessment of the risks both to the department and NHSBSA's objectives and activities in line with the department's risk assessment process
- inform NHSBSA of relevant government policy in a timely manner
- bring concerns about the activities of NHSBSA to the full NHSBSA 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 Permanent Secretary has appointed the department's chief commercial officer as the senior departmental sponsor who acts as the main source of advice to the responsible minister on the discharge of his or her responsibilities in respect of NHSBSA. The senior departmental sponsor also supports the principal accounting officer in his or her responsibilities towards NHSBSA. The senior departmental sponsor role is facilitative and recognises the need for direct engagement between NHSBSA and other parts of the department and ministers. It also supports the Secretary of State and Permanent Secretary in holding NHSBSA to account. The senior departmental sponsor is also responsible for agreeing the objectives for and reviewing the contribution of the chair of NHSBSA.

The NHSBSA sponsor team within the commercial companies management team is the primary contact for NHSBSA. The sponsor team supports the senior departmental sponsor, liaising regularly with counterparts in NHSBSA to support effective corporate relationships and co-ordinate assurance and accountability functions. This includes:

- supporting working relationships between the department and NHSBSA



- highlighting wider policy developments that may impact on them and facilitating policy discussions
- troubleshooting and resolving live issues
- supporting planning, including development of the strategy and annual business plan which includes performance and financial objectives for NHSBSA to meet throughout the year and which is approved by the senior departmental sponsor
- reviewing performance against these plans, achievement against targets and expenditure against departmental expenditure limit (DEL) and annual managed expenditure (AME) allocations
- co-ordinating processes for assuring and constructively challenging progress and feeding into wider accountability and governance processes within the department
- enabling ministers and Parliament to have effective oversight of NHSBSA

## **Resolution of disputes between NHSBSA and the department**

Any disputes between the department and NHSBSA will be resolved in as timely a manner as possible. The department and NHSBSA will seek to resolve any disputes through an informal process in the first instance and ongoing effective communication between stakeholders is essential to working collaboratively. If this is not possible, then a formal process, overseen by the senior departmental sponsor or another relevant director general, will be used to resolve the issue. Where the dispute cannot be resolved at director general level, the senior departmental sponsor 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 (FOI) 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, specifically around general policy, broad service delivery, governance and areas of public interest. Further information is provided in [Annex A: the public and Parliamentary accountability protocol \(https://www.gov.uk/government/publications/dhsc-and-nhsbsa-framework-agreement\)](https://www.gov.uk/government/publications/dhsc-and-nhsbsa-framework-agreement).

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

The arm's length body (ALB) 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
- circulation of privileged information within government occurs only as necessary

Further information is provided in [Annex A](https://www.gov.uk/government/publications/dhsc-and-nhsbsa-framework-agreement) (<https://www.gov.uk/government/publications/dhsc-and-nhsbsa-framework-agreement>).

## NHSBSA's governance and structure

### Governance and accountability

NHSBSA shall operate corporate governance arrangements that, as far as is practicable and in the light of the other provisions of this framework agreement or as otherwise may be mutually agreed, accord with corporate governance practice and applicable regulatory requirements and expectations.

In particular (but without limitation) NHSBSA 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 their 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>)

- 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>) as appropriate, and in particular those concerning finance, commercial or counter fraud
- take into account the codes of good practice and guidance set out in [Annex B of this framework agreement](https://www.gov.uk/government/publications/dhsc-and-nhsbsa-framework-agreement) (<https://www.gov.uk/government/publications/dhsc-and-nhsbsa-framework-agreement>), as they apply to ALBs

In line with Managing Public Money Annex 3.1, NHSBSA shall provide an account of corporate governance in its annual governance statements, including the board's assessment of its compliance with the code of good practice ('the code') and with an explanation of any relevant departures from that. To the extent that NHSBSA intends to materially depart from the code, the department should be notified in advance, and their agreement sought for this approach.

## The chief executive

### Appointment of the chief executive

The chair and non-executive directors of the NHSBSA Board are legally responsible for appointing the chief executive, subject to Secretary of State approval. In consultation with the department, they set performance objectives and remuneration terms linked to these objectives for the chief executive which give due weight to the proper management and use of public resources.

### Responsibilities of NHSBSA's chief executive as accounting officer

The accounting officer of NHSBSA is personally responsible for:

- safeguarding the public funds for which he has charge
- ensuring propriety, regularity, value for money and feasibility in the handling of those public funds
- the day-to-day operations and management of NHSBSA

In addition, he should ensure that NHSBSA is run on the basis of the governance, decision-making and financial management standards that are set out in Box 3.1 of Managing Public Money. These responsibilities include those outlined below and those that are set out in the accounting officer appointment letter issued to them by the principal accounting officer of the department.

### Responsibilities for accounting to Parliament and the public

## Accounting officer 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 reports and accounts
- ensuring that effective procedures for handling complaints in accordance with the Parliamentary and Health Service Ombudsman's principles of good complaint handling are established and made widely known within NHSBSA and published on their website
- acting in accordance with the terms of this document, Managing Public Money and other instructions and guidance issued from time to time by the department, HM Treasury and the Cabinet Office
- ensuring that, as part of the above compliance, he or she is familiar with and acts in accordance with: any governing legislation; this framework agreement; any delegation letters; any elements of any settlement letter issued to the department that is relevant to the operation of NHSBSA and any settlement letter issued to NHSBSA by the department
- ensuring they have appropriate internal mechanisms for the monitoring, governance and external reporting regarding compliance with any conditions arising from the above documents
- giving evidence, normally with the principal accounting officer, when summoned before the Public Accounts Committee

## **Responsibilities to the Department of Health and Social Care**

Particular responsibilities to the department include:

- establishing NHSBSA's business plan in agreement with the department in light of the department's wider strategic aims and priorities
- informing the department of progress and meeting reporting requirements in helping to achieve the department's policy objectives relating to NHSBSA functions and duties, and in demonstrating how resources are being used to

achieve those objectives

- ensuring that timely and sufficiently detailed forecasts and monitoring information on performance and finance is 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, 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 the 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 NHSBSA's 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 their decisions, and that financial appraisal techniques are followed

## **Managing conflicts**

The chief executive shall 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 chair, are 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 his role as accounting officer should reject that course of action and ensure that the board has a full opportunity to discuss the rationale for that rejection.

Such conflicts shall be brought to the attention of the senior departmental sponsor as soon as possible, for possible escalation to the principal accounting officer and the Secretary of State.

Furthermore, and if agreed with the Secretary of State, 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 HM Treasury's Officer of Accounts.

If the Secretary of State agrees with the proposed course of action, it may be appropriate for the Secretary of State to direct the accounting officer as set out in Managing Public Money, paragraph 3.4 onwards.

## The chair and NHSBSA Board

### Composition of the board

In accordance with the NHS Business Service Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005 (SI 2005/2414) as amended by SI2006/632, NHSBSA will have a board made up of:

- a non-executive chair appointed by the Secretary of State for Health and Social Care
- no less than 2 and no more than 5 other non-executive members in addition to the chair, also appointed by the Secretary of State for Health and Social Care
- chief executive appointed by the non-executive members
- up to 5 executive directors including the finance director

The role of the board is to run NHSBSA, and to deliver its objectives, in accordance with the purposes set out above, their statutory, regulatory, common law duties and its responsibilities under this framework agreement.

Detailed responsibilities of the board shall be set out in the board's Scheme of Delegations, which is available on NHSBSA's website as part of the governance framework. Further responsibilities are outlined in 'Matters Reserved to the Board' on the NHSBSA website, including standing orders, certain controls and appointments, strategic planning, performance monitoring and audit.

Remuneration of the board shall be disclosed in line with the guidance in the [Government Financial Reporting Manual](https://www.gov.uk/government/publications/government-financial-reporting-manual-2021-22) (<https://www.gov.uk/government/publications/government-financial-reporting-manual-2021-22>).

The board will agree ways of working to maintain a balance of skills and experience appropriate to directing NHSBSA's business, in line with good standards of corporate governance.

There will be a balance of independent non-executive directors on the board to ensure that executive directors are supported and constructively challenged in their roles.

## **Board committees**

The board may set up such committees as necessary for them to fulfil their functions, each of which will undertake detailed scrutiny in its area of responsibility and provide the board with regular reporting and formal assurance. As a minimum, this shall include an Audit and Risk Committee chaired by an independent and appropriately qualified non-executive director.

While the board may make use of committees to assist their consideration of executive appointments, succession, audit, risk and remuneration, they retain responsibility for, and endorse, final decisions in all these areas. The chair should ensure that sufficient time is allowed at board meetings 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 shall 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 shall have the right to report the issue to the NHSBSA sponsor team, and potentially escalated to the principal accounting officer and the Secretary of State. 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 shall ensure that board committees are properly structured with appropriate terms of reference. The terms of each committee shall set out its responsibilities and the authority delegated to it by the board. The chair shall 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.

## **Appointments to the board**

All appointments should have regard to the principles of public appointments and should reflect the diversity of the society in which we live, taking account of the need to appoint boards which include a balance of skills and backgrounds.

The chair and non-executive directors of NHSBSA are appointed by the Secretary of State under paragraph 2 of Schedule A1 of the NHS Act 2006. NHS England is included in the schedules of the [Public Appointments \(No2\) Order in Council 2019](https://publicappointments.cabinetoffice.gov.uk/wp-content/uploads/2019/11/Public-Appointments-No.-2-Order-in-Council-2019.pdf) (<https://publicappointments.cabinetoffice.gov.uk/wp-content/uploads/2019/11/Public-Appointments-No.-2-Order-in-Council-2019.pdf>) and these appointments must therefore be made in accordance with the [Governance Code for 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. Any consideration of re-appointments is subject to a satisfactory appraisal, as set out in the Code.

The chief executive and the executive members of the board are appointed by the non-executive directors under paragraph 3 of Schedule A1 to the act. The appointment of a chief executive must be approved by the Secretary of State.

## **Duties of the board**

The board is specifically responsible for:

- establishing and taking forward NHSBSA's strategic aims and objectives, consistent with their overall strategic direction, any formal directions, and within the capital and revenue resource limits set by the Secretary of State
- providing effective leadership of NHSBSA 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 NHSBSA to meet its objectives
- reviewing management performance
- ensuring that the board receives and reviews regular financial and management information
- ensuring that they are kept informed of any changes which are likely to impact on NHSBSA's strategic direction or on the attainability of its targets, determining the steps needed to deal with such changes and, where appropriate, bringing such matters to the attention of the Secretary of State and principal accounting officer via the executive team, sponsor 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 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 department
- ensuring that as part of the above compliance, they are familiar with: this framework agreement; any delegation letters issued to them; any elements of any settlement letter issued to the department that is relevant to the operation of NHSBSA; and any separate settlement letter that is issued to NHSBSA by the



department; and that they have appropriate internal mechanisms for the monitoring, governance and external reporting with regard to any conditions arising from these documents and ensure that the chief executive and NHSBSA as a whole act in accordance with their obligations under them

- demonstrating high standards of corporate governance at all times, including by using the independent Audit and Risk Committee to address key financial and other risks
- appointing, with the Secretary of State's approval, a chief executive and, in consultation with the department, setting performance objectives and remuneration terms linked to these objectives for the chief executive which give due weight to the proper management and use of public resources
- determining all such other things which the board considers ancillary or conducive to the attainment or fulfilment by NHSBSA of its objectives

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

The board shall make a strategic choice about the style, shape and quality of risk management and shall lead the assessment and management of opportunity and risk.

The board shall 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 shall set up an Audit and Risk Committee chaired by an independent and appropriately qualified non-executive member to provide independent advice on risk and ensure that the department's Audit and Risk Assurance Committee is provided with routine assurances with escalation of any significant limitations or concerns. They are expected to assure themselves 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 their responsibilities. Such responsibility shall be exercised in light of his or her duties and responsibilities as set out in the chair's terms of engagement, the statutory framework, the framework agreement and the documents and guidance referred to within this document.

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 NHSBSA's affairs are conducted with probity
- ensuring that policies and actions support the Secretary of State's wider strategic policies and, where appropriate, that these policies and actions are clearly communicated and disseminated throughout NHSBSA

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 Secretary of State 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 is reviewed and is working effectively, including ongoing assessment of the performance of individual board members with a formal annual evaluation and when being considered for re-appointment
- in conducting assessments, the views of relevant stakeholders including employees and the sponsor team are sought and considered
- the board has a balance of skills appropriate to directing NHSBSA's business, and that all directors, including the chair and chief executive, continually update their skills, knowledge and familiarity with NHSBSA to fulfil their role both on the board and its committees. This shall 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, and how this differs from private sector practice
- board members are fully briefed on their terms of engagement, duties, rights and responsibilities

- the Secretary of State is advised of NHSBSA's needs when board vacancies arise
- there is a board operating framework in place setting out the role and responsibilities of the board consistent with the Government Code of Good Practice for Corporate Governance
- there is a code of practice for board members in place, consistent with the Cabinet Office Code of Conduct for Board Members of Public Bodies

The senior departmental sponsor is responsible for agreeing the objectives for and reviewing the contribution of the chair of NHSBSA. This process is a requirement of the Commissioner for Public Appointments. The department's Public Appointments and Honours team shall write to the chair to inform them that the senior departmental sponsor shall be contacting them to arrange meetings to review objectives and to ask them to complete the same task for their non-executive directors.

Communications between the NHSBSA Board and the responsible minister should normally be through the chair.

### **Individual board members' responsibilities**

Individual board members shall:

- 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) as appropriate
- 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 NHSBSA

- ensure they are familiar with any applicable guidance on the role of public sector 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 controls and responsibilities

### Delegated authorities

NHSBSA's delegated authorities are set out in the department's Schedule of Delegations and delegation letters.

In line with Managing Public Money Annex 2.2, these delegations shall be reviewed annually and delegation letters will therefore be updated from time to time by the department, in agreement with HM Treasury.

NHSBSA shall obtain the department's and, where required, 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 NHSBSA'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, or making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the department, unless where required to do so by order of the court
- 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 Managing Public Money

### Spending authority

Once the budget has been set by the department, NHSBSA has authority to incur expenditure approved in the budget without further reference to the department, on the following conditions:

- NHSBSA shall comply with the delegations set out in the delegation letters. These delegations shall not be altered without the prior agreement of the department and as agreed by HM Treasury and Cabinet Office as appropriate
- NHSBSA 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 approval from the department and, where required, HM Treasury where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed
- NHSBSA shall provide the department with such information about its operations, performance, individual projects or other expenditure as the department may require

## **Banking and managing cash**

NHSBSA shall maximise the use of publicly procured banking services (accounts with central government commercial banks managed centrally by Government Banking).

NHSBSA shall 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 shall be operated in line with the principles set out in Managing Public Money.

The accounting officer is responsible for ensuring NHSBSA has Banking Policies as set out in Managing Public Money and ensuring that policy is complied with.

## **Procurement**

NHSBSA shall ensure its procurement policies are aligned with and comply with any relevant UK or other international procurement rules and regulations, in particular the Public Contracts Regulations, 2015 and their legal responsibilities within these regulations.

NHSBSA shall establish procurement policies and document these in a Procurement Policy and Procedures Manual.

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

Goods, services, and works should be acquired by competition. Proposals to let single-tender or restricted contracts shall be limited and exceptional, and the department should be informed whenever these exceptions are invoked via monthly finance or commercial meetings.

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

NHSBSA shall:

- engage fully with departmental and government-wide procurement initiatives that seek to achieve value for money 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 value for money
- ensure their commercial capability is developed in line with [Government Commercial Function People Standards for the Profession](https://www.gov.uk/government/publications/government-commercial-function-people-standards-for-the-profession) (<https://www.gov.uk/government/publications/government-commercial-function-people-standards-for-the-profession>)

NHSBSA shall also 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 standards. These standards apply to the planning, delivery and management of government commercial activity, including management of grants in all departments and ALBs, regardless of the commercial approach, and form part of the suite of functional standards that set expectations for management within government.

## Risk management

NHSBSA shall ensure that the risks 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 HM Treasury guidance 'Management of Risk – Principles and Concepts'.

NHSBSA shall promptly notify the department of any operational and financial risks, arising from its activities, which may have a significant impact on it, the department, another health and care body or the wider system. It is the

responsibility of NHSBSA's risk function and board and the sponsor team to keep each other informed of significant risks to, or arising from, the operation of NHSBSA within the wider system. These will be discussed in meetings with the senior departmental sponsor and director general for finance and may be escalated to the department's Audit and Risk Committee for consideration. The chair of the NHSBSA Audit and Risk Committee shall also escalate any risk concerns to the department's risk team and may be asked to attend the department's Audit and Risk Committee to explain risks.

## **Counter fraud and theft**

NHSBSA shall adopt and implement policies and practices to safeguard itself against fraud and theft.

NHSBSA shall act in line with guidance issued by the Counter Fraud Function and in compliance with the procedures and considerations in Managing Public Money Annex 4.9 and 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>). NHSBSA shall 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.

NHSBSA shall keep records of and prepare and forward to the department an annual report on fraud and theft suffered by NHSBSA and notify the department of any unusual or major incidents as soon as possible. NHSBSA shall 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.

NHSBSA will engage with the department's counter fraud team and NHS Counter Fraud Authority on all services they are onboarding to ensure responsibilities for counter fraud activities are clearly defined in the directions, memorandums of understanding or other relevant agreements.

## **Staff**

### **Broad responsibilities for staff**

Within the arrangements approved by the Secretary of State and HM Treasury, NHSBSA shall have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities towards staff are to ensure that:

- the rules for recruitment and management of staff create an inclusive culture in which diversity is valued and promoted; appointment and advancement is based on merit; there is no discrimination including on grounds of sex, marital status, pregnancy and maternity, sexual orientation, gender reassignment, race, colour, ethnic or national origin, religion, disability, community background or age
- the level and structure of staffing, including grading and staff numbers, are appropriate to their functions and the requirements of economy, efficiency and effectiveness
- the performance of staff at all levels is satisfactorily appraised and NHSBSA performance measurement systems are reviewed from time to time
- staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve NHSBSA'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 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](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>)

## **Staff costs**

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

## **Pay and conditions of service**

NHSBSA's staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by the department and HM Treasury. NHSBSA has no delegated powers to amend these terms and conditions without the approval of the Secretary of State and HM Treasury.



If civil service terms and conditions of service apply to the rates of pay and non-pay allowances paid to the staff and to any other party entitled to payment in respect of travel expenses or other allowances, payment shall be made in accordance with the [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>) and the annual Civil Service Pay Remit Guidance, except where prior approval has been given by the department to vary such rates.

Staff terms and conditions shall be set out in the standard contract template, which shall be provided to the department together with any subsequent amendments.

NHSBSA shall abide by public sector pay controls, including the relevant approvals process dependent on their 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 NHSBSA'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.

Executive and senior managers in NHSBSA are subject to the department's pay framework for very senior managers in ALBs 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.

The travel and subsistence expenses of executive board members shall be tied to the rates allowed to senior staff of NHSBSA. 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 NHSBSA staff are eligible for the NHS pensions scheme, which is in turn administered by NHSBSA 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. The organisational pension scheme for civil servants is the Civil Service pensions scheme.

Any proposal for NHSBSA 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 Managing Public Money.

NHSBSA shall seek approval for any cases of 10 redundancies or more, or any case where it is seeking the application of an exemption to the regulations, from the department's Governance and Assurance Committee. These applications will need approval from the NHSBSA sponsor team before being considered by the committee.

### **Recruitment of senior staff**

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

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

### **Corporate and business plans**

NHSBSA shall submit annually to the department a multi-year rolling strategy and business plan setting out how it proposes to exercise its functions in the following financial year and each of the next 2 financial years. NHSBSA shall agree with the department the issues to be addressed in the plan and the timetable for its preparation. The plan shall reflect NHSBSA'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 NHSBSA contributes to the achievement of the department's medium-term plan and priorities and aligned performance metrics and milestones.

As well as, subject to commercial considerations, publishing the business plan and any revisions, NHSBSA should make it available to staff.

The following key matters shall be included in the business plan:

- key objectives and associated key performance targets for the forward years, and the strategy for achieving those objectives
- key non-financial performance targets

- alternative scenarios and an assessment of the risk factors that may significantly affect the execution of the plan but that cannot be accurately forecast
- other matters as agreed between the department and NHSBSA

## **Budgeting procedures**

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

- a formal statement of its annual budget allocation by the department in light of competing priorities, including any forecast income approved by the department
- statement of any planned policy changes affecting NHSBSA

The budget statement should be available by the end of the calendar year, enabling the business plan to take account of the approved funding position and be approved before the new financial year. The business plan will also include a budget of estimated payments and receipts, along with a profile of expected expenditure and draw-down of departmental funding and other income.

## **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. Cash balances should be kept to a minimum.

In the event that the department provides NHSBSA with separate grants for specific (ring-fenced) purposes, it would issue the grant as and when NHSBSA needed it on the basis of a written request. NHSBSA would provide evidence that the grant was used for the purposes authorised by the department.

The grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. NHSBSA 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 NHSBSA. 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 NHSBSA 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 [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).

The annual report and accounts must:

- comply with the Government Financial Reporting Manual, with particular attention to example statements for a non-departmental public body
- cover any corporate, subsidiary or joint ventures under its control
- outline main activities and performance during the previous financial year and set out forward plans in summary form

Information on performance against key financial targets is within the scope of the audit and shall be included as part of the financial performance described in the annual report. The report and accounts must be laid in Parliament and made available on NHSBSA's website, in accordance with the guidance in the Government Financial Reporting Manual.

## Reporting performance to the department

NHSBSA 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.

NHSBSA 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.

NHSBSA's performance shall be formally reviewed by the department at least twice a year. This is achieved by means of quarterly accountability meetings between NHSBSA's chair and chief executive (and other members of the leadership team by invitation) and the senior departmental sponsor.

The responsible minister will meet the board once a year.

The principal accounting officer will meet the chief executive at least once a year.

## Information sharing

The department has the right of access to all NHSBSA records and personnel for any purpose including, for example, sponsorship audits and operational investigations. NHSBSA shall provide the department with such information about its operations, performance, individual projects or other expenditure as the department may reasonably require.

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

See [Annex A: public and Parliamentary accountability protocol \(https://www.gov.uk/government/publications/dhsc-and-nhsbsa-framework-agreement\)](https://www.gov.uk/government/publications/dhsc-and-nhsbsa-framework-agreement) for a detailed explanation of exclusions for legal and policy reasons.

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

- NHSBSA'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

To support the Secretary of State and the principal accounting officer in their accountability functions, the Secretary of State has the legal power to require NHSBSA to provide him with such information as he feels necessary for the purposes of his health service functions and any such requirement must be complied with.

## Audit

### Internal audit

NHSBSA shall:

- establish and maintain arrangements for internal audit in accordance with HM Treasury's [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)

- ensure the department is satisfied with the competence and qualifications of the Head of Internal Audit and the requirements for approving appointments in accordance with Public Sector Internal Audit Standards
- forward the audit strategy, periodic audit plans and annual audit report, including NHSBSA's Head of Internal Audit opinion on risk management, control and governance as soon as possible to the department
- keep records of and prepare and forward to the department an annual report on fraud and theft suffered by NHSBSA and notify the department of any unusual or major incidents as soon as possible
- share with the 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 NHSBSA

## External audit

The Comptroller and Auditor General audits NHSBSA's annual accounts and lays them before Parliament together with his report.

In the event that NHSBSA sets up and controls subsidiary companies, they shall, in the light of the provisions in the Companies Act 2006, ensure that the Comptroller and Auditor General has the option to be appointed auditor of those company subsidiaries that they control and/or whose accounts are consolidated within their own accounts. NHSBSA shall discuss with the department the procedures for appointing the Comptroller and Auditor General as auditor of the companies.

The Comptroller and Auditor General:

- shall consult the department and NHSBSA on who – the National Audit Office or a commercial auditor – shall undertake the audits on his behalf, though the final decision rests with the Comptroller and Auditor General
- 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 NHSBSA
- shall share with the department information identified during the audit process and the audit report (together with any outputs) at the end of the audit, in particular on issues impacting on the department's responsibilities in relation to

financial systems within NHSBSA

- shall 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 Comptroller and Auditor General's independent status, the provision of such reports is entirely at the Comptroller and Auditor General's discretion

The Comptroller and Auditor General may carry out examinations into the economy, efficiency and effectiveness with which NHSBSA has used resources in discharging functions. For the purpose of these examinations, the Comptroller and Auditor General has statutory access to documents as provided for under section 8 of the National Audit Act 1983. In addition, NHSBSA shall provide, in conditions to grants and contracts, for the Comptroller and Auditor General 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 their best endeavours to secure access for the Comptroller and Auditor General to any other documents required by the Comptroller and Auditor General which are held by other bodies.

## Reviews and winding up arrangements

### Review of NHSBSA status

NHSBSA shall be reviewed by the department at appropriate dates in accordance with Cabinet Office guidance.

### Arrangements in the event that NHSBSA is wound up

If legislation is enacted for the abolition of NHSBSA, the department will put in place any necessary arrangements to ensure the orderly winding up of the organisation, subject to that legislation. In particular it shall ensure that assets and liabilities are passed to any successor organisation and accounted for properly (in the event that there is no successor organisation, the assets and liabilities shall revert to the department). To this end the department shall:

- have regard to Cabinet Office [guidance on the winding up of arm's length bodies \(https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance\)](https://www.gov.uk/government/publications/non-departmental-public-bodies-characteristics-and-governance)

- ensure that procedures are in place in NHSBSA 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 NHSBSA's assets and liabilities
- ensure that arrangements are in place to prepare closing accounts and pass to the Comptroller and Auditor General for external audit, and that, for non-Crown bodies, funds are in place to pay for such audits. It shall be for the Comptroller and Auditor General to lay the final accounts in Parliament, together with his report on that 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's accounting officer shall sign the closing accounts. In the event that the department inherits the role, responsibilities, assets and liabilities, the department's principal accounting officer shall sign

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

## Other matters

### Equalities and other legal duties

The public sector equality duty requires all public bodies, including NHSBSA, to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under Equality Act 2010
- 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 NHSBSA 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
- publish the information in a manner that is accessible to the public

NHSBSA also has other legal duties set out in the act, including the duty to have regard to the need to reduce health inequalities.

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

NHSBSA works in partnership with the department, its other ALBs, NHS contractors 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 ALBs have complementary but distinct roles within the system to ensure that service users receive high quality services which deliver value for money.

## **Emergency preparedness, resilience and response**

NHSBSA has particular expertise in supporting the response to emergencies and other health threats, as key players in an extended team that works across the health and care system. The Secretary of State has cross-government responsibility to provide assurance on the health system's emergency preparedness and has broad powers of direction in relation to the whole health service in an emergency situation.

## **Sustainability**

As a major public sector body, NHSBSA has a key role to play in driving forward the government's commitment to sustainability in the economy, society and the environment. As a minimum, NHSBSA shall comply with the Greening Government Commitments that apply to all government departments, executive agencies and non-departmental public bodies, set out in the [action plan for driving sustainable operations and procurement across government](https://www.gov.uk/government/publications/greening-government-commitments-2021-to-2025) (<https://www.gov.uk/government/publications/greening-government-commitments-2021-to-2025>).

## Communications responsibilities

The department and its ALBs have agreed basic principles to enable co-operative and collaborative working between the department and its ALBs on all aspects of communication and marketing activities. The ways in which these apply between the department and NHSBSA are set out in [Annex C: public-facing communications protocol](https://www.gov.uk/government/publications/dhsc-and-nhsbsa-framework-agreement) (<https://www.gov.uk/government/publications/dhsc-and-nhsbsa-framework-agreement>).

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