



Department
of Health



Litigation Authority

**Framework Agreement
Between the Department of Health and the
National Health Service Litigation Authority**

Annex B: Finance and accounting responsibilities

Annex B: Finance and Accounting

1. The Framework Agreement sets out the governance and accountability arrangements between the Department of Health and the National Health Service Litigation Authority (NHS LA). This annex provides additional detail on the finance and accounting arrangements which complements the Framework Agreement itself.

Annual Expenditure Limits

2. The Secretary of State issues the NHS LA with its proportion of the Health-voted expenditure limits in line with the prevailing annual business planning process. As Accounting Officer, the Chief Executive must ensure that, in any financial year, the NHS LA's spending does not exceed the limit set by the Secretary of State for that year:

- revenue (non ring-fence);
- revenue (ring-fence);
- capital;
- annually managed expenditure; and
- technical accounting/budgeting.

3. The Accounting Officer must also ensure that:

- the NHS LA's total spending on administration in any financial year does not exceed either the combined overall admin control limit for the NHS LA or the limit for the NHS LA itself, both set by the Secretary of State as a subset of the revenue resource limit; and that
- in any given year the cash usage of the NHS LA does not exceed the cash limit (allotment) for the NHS LA plus any payments received which are used to offset expenditure that would have otherwise scored against this limit.

4. Each of the controls referred to in paragraphs 2 and 3 above must be met individually.

Business Planning

6. The NHS Act 2006 (as amended by the Health and Social Care Act 2012) requires the NHS LA to produce a business plan each year (see section 3.2 of the Framework Agreement). The plan will be required to be costed: supporting guidance issued by the Department will provide the format and level of financial detail required. The budgets for the NHS LA for both administration and programme funded activity will be reissued with the planning guidance, incorporating any guidance on overall efficiencies relevant to the Department and its arm's length bodies.

7. The business plan will need to identify detailed revenue, capital and cash forecasts for Parliamentary funding funded activity, and also equivalent expenditure associated with any other income sources. It will need to clearly identify the distinction between costs and income falling inside and outside the administration budget regime.

Accounts

8. Paragraph 6.2 of the Framework Agreement sets out the expectation, arising from Secretary of State's powers under the NHS Act 2006 (as amended), that the Department will routinely have full access to the NHS LA's information and files, subject to the requirements of the Data Protection Act 1998 and any other laws relating to the protection of personal data. In relation to financial reporting, the Department is required by HM Treasury to report in-year financial performance and forecasts for all its arm's length bodies, by Estimate Line, and in a specified format, to a strict timetable. The NHS LA is required to comply with Departmental plans and schedules which enable the Department to meet HM Treasury deadlines, and the Department's overall financial planning to meet HM Treasury spending controls through the Shared Financial Planning Agreement.

9. The NHS LA must prepare annual accounts for each financial year ending 31 March, and interim accounts for shorter periods if required. In relation to these accounts, the NHS LA must:

- ensure that accounts are prepared according to the form, content, methods and principles prescribed by the Secretary of State in his annual group accounting instructions;
- submit these accounts (both unaudited and audited) to the Department by a date to be specified by the Secretary of State; and
- submit these accounts to the Comptroller and Auditor General (C&AG) for audit as soon as reasonably practicable after the year end (or, in the case of any interim account, as soon as reasonably practicable after the end of the interim period to which that interim account relates).

10. The NHS LA must publish an annual report of its activities together with its audited accounts after the end of each financial year. Information on performance against key financial targets is within the scope of the audit and should be included in the notes to the accounts. The report and accounts are to be signed by the NHS LA's Accounting Officer and laid before Parliament by the NHS LA and made available on the NHS LA's website, in accordance with the guidance in the Government Financial Reporting Manual (FReM). A draft of the report should be submitted to the Department in line with the published timetable.

11. The Accounting Officer must also ensure that the NHS LA participates fully in all agreement of balances exercises initiated by the Department, and in the form specified by the Department, and that it agrees income and expenditure and payables and receivables balances both with other organisations within the Department's resource accounting boundary and, for the purposes of the WGA, with other government bodies outside that boundary. In doing so, the NHS LA should seek to agree all outstanding balances but in any case should keep within any level of materiality set by the Department.

Audit

12. Section 8 of the Framework Agreement sets out the high level requirements for audit.

13. To meet the requirements for internal audit, the NHS LA must:

- 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;
- prepare an audit strategy, taking into account the Department's priorities (whilst ensuring that the NHS LA's Accounting Officer and Audit and Risk committee meet their responsibilities in this respect), and forward the audit strategy, periodic audit plans and annual audit report, including the NHS LA's Head of Internal Audit's opinion on risk management, control and governance as soon as possible to the Department; and
- keep records of theft or fraud (in the form of an annual report) suffered by the NHS LA and notify the Department of any unusual or major incidents as soon as possible.

14. The Department is committed to the development of a group assurance model for DH and its arms length bodies. The NHSLA has agreed, in principle, that its internal audit provision will be delivered as part of a shared service once the contract period for its initial provider has expired. The NHS LA will engage with the Department in the development of the group assurance model.

15. The Department's group internal audit service has a right of access to all documents prepared by the NHS LA's internal auditor, including where the service is contracted out (until such time when the contract expires, after which Group Internal Audit will provide the audit service – including having access to all previous audit documentation).

16. For external audit, the C&AG audits the NHS LA's annual accounts and lays them before Parliament, together with his report.

17. The C&AG:

- will consult the Department and the NHS LA 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&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, those held by another party in receipt of payments or grants from the NHS LA;
- will share with the 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 the NHS LA;
- will, where asked, provide the Department and other relevant bodies with regulatory compliance reports and other similar reports which the Department may request at the commencement of the audit and which are compatible with the independent auditor's role.

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

Delegated Authorities

19. Paragraph 9.5 of the Framework Agreement requires the NHS LA to abide by any relevant cross-Government efficiency controls. The Secretary of State has approved the establishment of revised controls for the NHS LA, applicable specifically to and only for its expenditure on transition activities concerned with developing itself as a new organisation, where these activities will by their very nature be critical to the success of the system-wide reforms. These controls will be communicated to the NHS LA.

20. Once the budget has been approved by the Department and subject to the Secretary of State's instructions and any other processes set out in this document,

the NHS LA has authority to incur expenditure approved in the budget without further reference to the Department, on the following conditions:

- the NHS LA will comply with its delegated authorities, which cannot be altered without the prior agreement of the Department, noting that authority to approve novel, contentious or repercussive proposals cannot be delegated from HM Treasury; and
- inclusion of any planned and approved expenditure in the budget will 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.

21. The NHS LA must obtain the Department's prior written approval before entering into any undertaking to incur expenditure outside its delegations or not provided for in its business plan as approved by the Department. In addition, the Department's prior written approval is required when:

- 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; or
- carrying out policies that go against the principles, rules, guidance and advice in *Managing Public Money*.

22. For major projects, the NHS LA will participate in the Department's common assurance and approval process.