



Department
of Health



Health Education England

**Framework Agreement between the
Department of Health and Health Education England**

2015

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1. Purpose of this document

1.1. The purpose of this document is to define the critical elements of the relationship between the Department and Health Education England (HEE). The document is focused on:

- How the Department and HEE work in **partnership** to serve patients, the public and the taxpayer; and
- How both HEE and the Department discharge their **accountability** responsibilities effectively.

2. Health Education England's purpose

2.1. HEE is established as an Executive Non Departmental Public Body by the Care Act 2014, which can be found on the Parliamentary website via the link below:

<http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

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

2.3. 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;

- Promoting high quality education and training, responsive to the needs of patients and local communities; and
- 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.

2.4. Across England, HEE has appointed LETBs as committees of HEE. LETBs work locally on behalf of NHS and public health providers to workforce plan and commission education, training and development. They manage and quality assure delivery to ensure local health and public health providers have the influence they need on the development of their workforce.

2.5. LETBs are accountable to HEE for the resources they invest in education, training and development, and must demonstrate compliance with rigorous criteria that has been published by HEE and approved by the Secretary of State.

3. Governance

3.1. HEE is led by a board made up of:

- a non-executive chair appointed by the Secretary of State for Health;

- six non-executive members, also appointed by the Secretary of State;
- a chief executive appointed by the non-executive members with the Secretary of State's consent; and
- four other executive board members appointed by the non-executive members: the total number of executive members must be fewer than the number of non-executive members.
- The board must have at least three members with clinical experience, of whom at least one must be an executive member and one a non-executive member. Those three members must comprise—
 - one person with clinical expertise in a profession regulated by the Medical Act 1983;
 - one person with clinical expertise in a profession regulated by the Nursing and Midwifery Order 2001; and
 - one person with clinical expertise in another regulated profession.

3.2. The Permanent Secretary has appointed a Senior Departmental Sponsor (SDS) who acts as HEE's designated, consistent point of contact within the Department. The SDS acts as the link at executive level between HEE and the senior officials of the Department, and also with Ministers. Whilst the SDS role

is facilitative and recognises the need for direct engagement between HEE and other parts of the Department and Ministers, it also supports the Permanent Secretary in holding HEE to account and providing assurance on its performance. The SDS is currently the Director General for Strategy and External Relations. The SDS is supported by a Departmental sponsor team, which is the principal day-to-day liaison between the Department and HEE.

Process for setting objectives

- 3.3. HEE has an overall duty to ensure an effective system is in place for education and training in the NHS and public health system. As part of that, the process for setting objectives for HEE is managed through the development and publication of the Government's mandate to HEE. The mandate will be reviewed annually and re-published where any changes or additions are made.
- 3.4. The mandate specifies the education outcomes that ministers expect HEE to achieve to deliver system wide improvements in education and training.
- 3.5. HEE will produce a business plan each year demonstrating how it will meet its legal duties and deliver the objectives set out in the mandate. The business plan will also set out how the progress HEE intends to make in meeting the education outcomes set by

ministers. The Department will provide guidance to support this process, which will include target budgets covering administration, programme, revenue and capital funding. HEE will reach agreement with the Department on its business plan. To facilitate comment from the Department, including relevant Ministers, the business plan will be shared and discussed in advance of clearance with HEE's board. HEE will be made aware of any concerns the Department may have. HEE will have a strategy for the longer term development of the health workforce. This will inform HEE's annual business plan.

Discharge of statutory functions

- 3.6. HEE will ensure that it has appropriate arrangements in place for the discharge of each of the statutory functions for which it is responsible and is clear about the legislative requirements associated with each of them, specifically any restrictions on the delegation of those functions. It will ensure that it has the necessary capacity and capability to undertake those functions, and will ensure that it has the statutory power to take on a statutory function on behalf of another person or body before it does so. HEE will also ensure that there is periodic audit of the discharge of its statutory functions so that the delivery of them remains

effective, efficient and legally compliant¹.

- 3.7. In carrying out its functions, HEE should have due regard to the stability of the healthcare system and will co-operate with the Department, Monitor, NHS England, Public Health England (PHE), Care Quality Commission (CQC) and NHS Trust Development Authority (NTDA) in considering the impact of education and training policies and funding decisions.

Cross-government clearance

- 3.8. In addition to internal governance, cross-government clearance is required for major new policy decisions of the type set out in Cabinet Office guidance.² Although such cases are likely to be small in number, the Secretary of State will be responsible for obtaining clearance and HEE will adhere to any conditions applied through the clearance process. 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. In such cases, HEE will supply the Secretary of State with any information he or she needs in a timely fashion.

¹ HEE should include a review of this in their three-year audit cycle, but ensure that they take steps to sufficiently assure themselves on an annual basis and include details of this within their governance statements.

² Guide to Cabinet and Cabinet Committees, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224997/Guide_to_Cabinet_Committees_2012.pdf, pages 6-9

4. Accountability

Secretary of State

4.1. The Secretary of State is accountable to Parliament for the health and care system (its “steward”), including HEE. The Department supports him or her in this role. This involves:

- setting national priorities and monitoring the whole system’s performance to ensure it delivers what patients, people who use services and the wider public need and value most;
- setting allocations across the health system, including for HEE;
- setting objectives and priorities for HEE;
- supporting the integrity of the system by ensuring that funding, legislation and accountability arrangements protect the best interests of patients, the public and the taxpayer; and
- accounting to Parliament for HEE’s performance and the effectiveness of the health and care system overall.

The Principal Accounting Officer and HEE’s Accounting Officer

4.2. The Department’s Permanent Secretary is the Principal Accounting Officer (PAO) and so is accountable in Parliament for the general performance of the health and care system in England, including HEE. This requires him or her to gain assurance that HEE is discharging its statutory duties and meeting the objectives set out in HEE’s mandate. In this

way the PAO is able to report to Parliament on the Department’s stewardship of the public funds it distributes and for which it holds overall accountability.

4.3. The Department’s Permanent Secretary, as the Department’s Principal Accounting Officer, has appointed HEE’s chief executive as its Accounting Officer (AO). The AO may be called to Parliament to account for the performance of HEE in educating, training and developing the NHS and public health workforce. The PAO can also be held to account in Parliament since the PAO’s oversight should allow him or her to assess the adequacy of HEE’s stewardship of public funds and discharge of its duties. This assessment includes making judgments about whether HEE is operating to adequate standards of regularity, propriety, feasibility and value for money (assessed for the Exchequer as a whole).

4.4. The PAO’s oversight of HEE’s performance relies upon the provision of information, and processes to enable both parties to review performance.

4.4.1. The information provided to the Department by HEE includes (not an exhaustive list):

- regular reports, at a minimum quarterly, on performance against the mandate;
- annual reports on the progress made in achieving

- education outcomes set by ministers;
- Management information, including:
 - forecast and actual expenditure by agreed category and broken down by LETB;
 - forecast and actual activity; and
 - in year and future year financial risks and pressures;
 - assurance reports prepared bi-monthly for the HEE board providing assessment against the objectives in the business plan (including risk management and financial statements covering in-year and year-end performance against budgetary controls); and
 - performance against any statutory requirements.
- 4.4.2. The processes in place to enable the Department and HEE to review performance include:
- Quarterly accountability meetings. These take place quarterly and is chaired by the SDS and involves the HEE Chief Executive and other relevant executive directors. The focus of these meetings is on strategic issues and any issues of delivery which the SDS believes it is appropriate to bring to this meeting, including compliance with the framework agreement;
 - End of year review involving the SDS and
- HEE Chief Executive; and
- Regular meetings between the lead Sponsor Director and the HEE Chair, Chief Executive and other Directors to discuss priority issues, risks to delivery and facilitate cross system working.
- 4.5. The HEE Chief Executive is held to account for compliance with and delivery of agreed duties and functions through DH/HEE assurance processes. In turn, HEE gains assurance from the LETB directors that they are discharging their duties and meeting their financial and performance objectives. LETBs are established and continually assessed against a set of rigorous establishment criteria. These are published by HEE and have been approved by the Secretary of State for Health. Effective Governance and Financial Control are two of the domains for the establishment criteria. As set out in Schedule 6 of the Care Act 2014, HEE has powers to intervene where it is not satisfied that a LETB is meeting the criteria. It can appoint new members to the LETB, take on functions itself or ask another LETB to take on responsibilities on an interim basis.
- 4.6. Each LETB has an accountability agreement, agreed annually with HEE, that outlines how they must operate to be effective. Formal monitoring of each LETB's

accountability agreement is being achieved through monthly and quarterly reporting. In addition, each LETB will contribute to the HEE annual report at the end of each financial year against the expected outcomes defined in their accountability statement. All LETBs will provide timely information to HEE to allow accurate assessments to be made of their performance and progress. This will ensure that HEE can provide the Department, on at least a quarterly basis, with assurance regarding the implementation and quality of its functions.

- 4.7. HEE must publish an annual report setting out how it has exercised its functions during the year, including HEE's assessment of delivery against its mandate. The report is to be sent to the Secretary of State, with a copy laid before Parliament.
- 4.8. HEE is responsible for the delivery of its objectives and the Department will limit the circumstances in which it will intervene in its activities. The following constraints do, however, apply:
- 4.8.1. All funds allocated to HEE must be spent on the statutory functions of HEE. If any funds are spent outside the statutory functions of HEE the Department could seek adjustments to the administration grant-in-aid/revenue allocation to compensate.

- 4.8.2. The Secretary of State may remove any non-executive member from the Board on the grounds set out in Schedule 5 of the Care Act 2014 . These include incapacity, misbehaviour or failure to carry out his or her duties as a non-executive member.
- 4.8.3. In the event of unresolved concerns about how HEE is carrying out its functions, the Secretary of State is able to direct HEE. If HEE failed to comply with such Directions, the Secretary of State may exercise the functions specified in the Direction, or make arrangements for another person to do so on his/her behalf.

5. Health Education England's board

- 5.1. HEE is governed by its board. The role of the board is as described in the corporate governance code for central government departments³ and includes establishing and taking forward the strategic aims and objectives of HEE, consistent with its overall strategic direction and within the policy and resource framework determined by the Secretary of State. The role also includes holding its executive management team to

³ The corporate governance guidelines (available at <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments>) are written for central government departments, although, as it says in the guidelines, "the principles in the Code generally hold across other parts of central government, including departments' arm's length bodies".

account and ensuring the organisation is able to account to Parliament and the public for how it has discharged its functions.

5.2. The board is led by a non-executive Chair, who is responsible to the Secretary of State for ensuring that HEE's affairs are conducted with probity, and that HEE's policies and actions support it in the discharge of its functions and duties efficiently and effectively and meet HEE's objectives, including those set out in its business plan and in the HEE mandate. The Senior Departmental Sponsor will ensure that there is an annual objective setting and review process in place for the Chair. The Chair and non-executive directors are responsible for appointing the executive directors to the board.

5.3. HEE's Chair and non-executive directors are appointed by the Secretary of State. Appointments will be transparent, will be made on merit, and are regulated by the Commissioner for Public Appointments. HEE also has a deputy non-executive chair.

5.4. The responsibilities of the Chief Executive are:

- Safeguarding the public funds and assets for which the Chief Executive has charge;
- Ensuring propriety, regularity, value for money and feasibility in the handling of those funds;

- The day-to-day operations and management of HEE;
- Ensuring that HEE is run on the basis of the standards (in terms of governance, decision-making and financial management) set out in *Managing Public Money*, including seeking and assuring all relevant financial approvals;
- Together with the Department, accounting to Parliament and the public for HEE's financial performance and the delivery of its objectives;
- Accounting to the Department's Permanent Secretary, who is Principal Accounting Officer for the whole of the Department's budget, providing a line of sight from the Department to HEE;
- Reporting quarterly to the PAO on performance against HEE's objectives, to be discussed at the formal quarterly accountability meetings chaired by the SDS.

5.5. The responsibilities of the board as a whole include: supporting the Accounting Officer in ensuring that HEE exercises proper stewardship of public funds, including compliance with the principles laid out in *Managing Public Money*; and ensuring that total capital and revenue resource use in a financial year does not exceed the amount specified by the Secretary of State.

5.6. The board should ensure that effective arrangements are in place to provide assurance on

risk management, governance and internal control. The board has set up an Audit Committee, chaired by an independent non-executive member with significant experience of financial leadership at board level. Other members need not be main board members but should be able to demonstrate relevant sectoral experience at board level. The committee should have at least four members, although this can be fewer if the board feel that is justified, and at least half of these should be main board members. The internal and external auditors must be invited to all meetings and be allowed to see all the papers.

6. Partnership working

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

- Working together 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.

6.2. 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.

- 6.3. 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 Senior Departmental Sponsor's team will be responsible for prioritising these requests for information.

Public and Parliamentary Accountability

- 6.4. The Department and its ALBs share responsibility for accounting to the public and to Parliament for policies, decisions and activities across the health and care sector. Accountability to Parliament will often be demonstrated through 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.
- 6.5. The Department and its Ministers remain responsible to Parliament for the system overall, so will often have to take the lead in demonstrating this accountability. Where this

is the case, HEE will support the Department by, amongst other things, providing information for Ministers to enable them to account to Parliament. In its turn, the Department provides leadership to the system for corporate governance, including setting standards for performance in accountability.

- 6.6. HEE, however, has its own responsibilities in accounting to the public and to Parliament, and its way of handling these responsibilities has been agreed with the Department. In all matters of public and parliamentary accountability the Department and its ALBs will work together considerately, cooperatively and collaboratively, and any information provided by HEE is to be timely, accurate and, where appropriate, consistent with information provided by the Department. To facilitate this, the Department and HEE have agreed a public and parliamentary accountability protocol that sets out how they will work together to secure the confidence of the public and Parliament, and to maintain the service levels that MPs and the public have come to expect.

7. Transparency

- 7.1. 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 and the

- public benefits achieved through its activities, and by supporting those who wish to use the data by publishing the information within guidelines set by the Cabinet Office⁴. 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 Senior Departmental Sponsor.
- 7.2. 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 C.
- 7.3. HEE’s executive and non-executive board members operate within the general principles of the corporate governance guidelines set out by HM Treasury⁵. They will also comply with the Cabinet Office’s Code of Conduct for Board Members of Public Bodies⁶ and with HEE’s rules
- on disclosure of financial interests, including those of Board members
- 7.4. 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 bodies⁷, which includes rules on conflicts of interest, political activity and restrictions on lobbying.
- 7.5. 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.

⁴ The guidance is available on the GOV.UK website:
<https://www.gov.uk/government/topics/government-efficiency-transparency-and-accountability>

⁵ The corporate governance guidelines (available at <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments>) are written for central government departments, although, as it says in the guidelines, “the principles in the Code generally hold across other parts of central government, including departments’ arm’s length bodies”.

⁶ <http://www.bl.uk/aboutus/governance/blboard/>

http://www.civilservice.gov.uk/wp-content/uploads/2011/09/5_public_body_staff_2_tcm6-2484.pdf

- 7.6. 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.

Whistleblowing

- 7.7. 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.⁸ It prohibits the use of confidentiality clauses that seek to prevent staff from speaking out on issues of public interest.

Sustainability

- 7.8. As a major public sector body, HEE 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, HEE should comply with the Greening Government Commitments⁹ 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. Reporting is via the Department (including the consolidation of relevant

information in the Department's annual resource account), and the Department will ensure that HEE is aware of the process for this.

8. Audit

- 8.1. The Comptroller and Auditor General will audit HEE's annual accounts. HEE will lay them before Parliament, together with the Comptroller and Auditor General's report.
- 8.2. The Comptroller and Auditor General may also choose to conduct a value-for-money audit of any aspect of HEE's work: HEE will cooperate fully with the NAO in pursuing such audits, and give them full access to all relevant files and information.
- 8.3. HEE is responsible for establishing and maintaining internal audit arrangements in accordance with the Public Sector Internal Audit Standards. HEE's internal audit function should report to its Audit and Risk sub-committee, and should consider issues relating to HEE's adherence to its business plan. The Department's Audit and Risk Committee remit includes risk management, corporate governance and assurance arrangements in all its subsidiary bodies and so HEE's Audit and Risk Committee should work closely with the Departmental committee.

⁸ <http://www.nhsemployers.org/EmploymentPolicyAndPractice/UKEmploymentPractice/RaisingConcerns/Pages/Whistleblowing.aspx>

⁹ <https://www.gov.uk/government/publications/greening-government-commitments-targets>

9. Delegations and financial management

- 9.1. Details of HEE's financial arrangements, including funding allocation, in-year reporting, preparation of accounts, and the accounting officer's responsibilities in relation to financial management and HEE's accounts, are provided in Annex B.
- 9.2. HEE's overall revenue and capital resources are set out in an allocation letter issued by the Senior Departmental Sponsor. HEE's delegated limits are issued to it by the Department, including those areas where HEE must obtain the Department's written approval before proceeding. HEE will adhere to these delegated authorities.
- 9.3. HEE must demonstrate that it is delivering its functions in the most efficient manner, and must provide timely returns to the Department where these are required either by it or by other departments within central government.
- 9.4. Accountability for the education and training allocation will rest with HEE. The size and scope of the allocation will be determined by the Department as part of the annual planning process. HEE will report management information, including budget and expenditure to the Department against the agreed following categories included within the scope of the allocation:
- Future workforce;
 - National priorities and nationally hosted budgets;
 - Education support;
 - Running costs; and
 - Workforce development.
- 9.5. The Department will set upper limits on running costs and workforce development.
- 9.6. HEE will follow an allocation policy for distributing the budget to the LETBs that meets the following principles set out in *Liberating the NHS: Developing the Healthcare Workforce – From Design to Delivery*:
- Recognises existing patterns of training;
 - Is not unnecessarily disruptive;
 - Is transparent and clearly based on rules;
 - Is equitable in allowing access to a trained workforce in the NHS across England;
 - Ensures economies of scale in commissioning where this is appropriate, for example for small specialist groups;
 - Supports high quality education and training; and
 - Supports the education and research interface.
- 9.7. HEE will agree the allocation policy with the Department as part of the quarterly review process and will review the allocation policy no less than every three years.
- 9.8. HEE will operate a fair and transparent policy for payments

to providers. The basis of this will be tariffs. HEE will work with the Department to develop and maintain tariffs for all clinical placements, based on NHS cost collections. HEE will have specific responsibility for setting the tariffs for the courses it commissions from higher education. It should notify the Department of the tariffs and the basis of the calculation. HEE will also be responsible for maintaining the currencies that are used to collect the costs of clinical placements and make future payments to providers. The Department is responsible for setting the tariff for those payments.

- 9.9. HEE, as with all public bodies and government departments, must operate within any relevant set of efficiency controls. These controls may affect areas of spend such as information communications technology (ICT), marketing and advertising, procurement, consultancy, the public sector estate, recruitment, major projects or strategic supplier management. The Department will ensure that HEE is kept informed of any efficiency controls in operation.
- 9.10. As part of the government's approach to managing and delivering public service at a reduced cost base, HEE, as with all other arm's length bodies and the Department, will in future receive its back office support, including finance and accounting, HR, payroll, procurement and ICT, through a shared or standardised

service approach. Details of the services between HEE and the service provider will be set out in a contract or where appropriate a service level agreement (SLA).

- 9.11. A shared or standardised value for money approach will also apply to the use of estate. HEE will comply with guidance on property and asset management issued by HM Treasury/the Department, in particular the principles set out by the Department's Estate Strategy Optimisation Board.

10. Risk management

- 10.1. HEE will ensure that it deals with the risks that it faces in an appropriate manner, according to best practice in corporate governance, and develop a risk management strategy in accordance with the Treasury guidance *Management of Risk: Principles and Concepts*¹⁰. It has adopted and implemented policies and practices to safeguard itself against fraud and theft, in line with HM Treasury guidance¹¹. It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant or grant-in-aid.

¹⁰

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220647/orange_book.pdf

¹¹
http://webarchive.nationalarchives.gov.uk/2013/01/29/10402/http://www.hm-treasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf.pdf

- 10.2. HEE has developed a reporting process to assure its board of financial and operational performance against the business plan at its bi-monthly Board meetings. This assurance report will include information on risks and how they are being managed in accordance with the Treasury guidance mentioned above. The information prepared will be shared with the Department to enable the Department to assure itself on risk management. HEE's Audit Committee will also challenge and scrutinise the operation of HEE's risk management processes and report to the Board on the effectiveness of its processes. HEE and the Department will agree a process and trigger points for the escalation of risks to the Department's Audit and Risk Committee, where those risks will have a potentially significant impact on HEE, the Department, or the wider system that requires a co-ordinated response.
- 10.3. Risks to the wider system that arise from HEE's operations, identified by HEE, the Department or another body, will be flagged in the formal quarterly accountability meetings chaired by the Senior Departmental Sponsor. Such risks may also be flagged by HEE's Board and escalated to the Department's Audit and Risk Committee for consideration. It is the responsibility of HEE and its sponsor to keep each other informed of significant risks to, or arising from, the operations

of HEE within the wider system.

- 10.4. HEE has effective and tested business continuity management (BCM) arrangements in place to be able to respond to disruption to business and to recover time-critical functions where necessary. In line with Cabinet Office guidelines, the BCM system should aim to comply with ISO 22301 Societal Security – Business Continuity Management Systems.

11. Human resources

- 11.1. HEE is responsible for recruiting staff, but will comply with any departmental or government-wide recruitment controls. The Department will ensure that HEE is made aware of any such controls. Very senior managers in HEE are subject to the Department of Health's pay framework for very senior managers in arm's length bodies, and may be subject to additional governance as specified by the Department. The Department will ensure that HEE is aware of any such requirements or restrictions.
- 11.2. HEE must obtain the approval of the Secretary of State in respect of policies relating to remuneration, pensions, allowances or gratuities.
- 11.2.1. Very senior manager remuneration is subject to the recommendations of the Senior Salaries Review Body, as accepted by the Government.

- 11.2.2. In relation to the remuneration of the rest of its staff, HEE, as with all ENDPBs where staff are on NHS terms and conditions, including pay, will be subject to the Government response to the recommendations of the NHS Pay Review Body and the Doctors and Dentists Review Body. In the event that HEE should decide to change its pay strategy and propose to introduce a new pay system at some point in the future, it would become subject to the full rigour of the annual pay remit process.
- 11.2.3. HEE will be expected to comply with all HMT pay reporting requirements.
- 11.2.4. In relation to pensions, the organisational pension scheme is the NHS Pensions scheme, which is administered by the NHS Business Services Authority and has rules set down in legislation.
- 11.3. Like all departments and arm's length bodies, HEE is required to follow any requirements for disclosure of pay or pay-related information.
- 11.4. Subject to its financial delegations, HEE is required to comply with the Department's and HM Treasury's approval processes in relation to contractual redundancy payments. All novel or contentious payments require the Department's and HM Treasury's approval. In certain circumstances, Ministerial and Cabinet Office approval may also be required and the Department will ensure that HEE is aware when such approval may be required. Special severance payments are always considered novel or contentious (this includes any proposal to make a payment as a result of judicial mediation).
- Equalities*
- 11.5. The public sector equality duty requires 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 this Act;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 11.6. The specific duties require HEE, as a public body, to:
- Annually, publish information to demonstrate compliance with the Public Sector Equality Duty. This information must include, in particular, information relating to persons who share a relevant protected characteristic who are its

employees (provided the organisation has 150 or more employees) and other persons affected by its policies and procedures; and

- Prepare and publish one or more objectives it thinks it should achieve to meet the Public Sector Equality Duty.¹²

12. Relations with the Department's other arm's length bodies

- 12.1. HEE will work in partnership with the Department and its 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, and working to the values set out in the NHS Constitution.
- 12.2. 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 public money. Annex D sets out the relationships that HEE will have with other ALBs and key bodies. Details of the working arrangements with these bodies will, where appropriate, be agreed and set out in a partnership agreement.

13. Review

- 13.1. The mandate for HEE will be reviewed every year and re-

issued where additions or changes are made.

- 13.2. HEE's business plan will be developed and published in accordance with the timetable set out by the Department.
- 13.3. The Department will regularly review HEE's performance at formal accountability meetings. In addition, the Department will undertake an in-depth review of HEE as well as its other arm's length bodies on at least a triennial basis.
- 13.4. As a Non Departmental Public Body, HEE is established by the Care Act 2014. Any change to its core functions or duties, including mergers, significant restructuring or abolition would therefore require further primary legislation. If this were to happen, the Department would then be responsible for putting in place arrangements to ensure a smooth and orderly transition, with the protection of patients being paramount. In particular, the Department is to ensure that, where necessary, procedures are in place in the ALB so the Department can obtain independent assurance on key transactions, financial commitments, cash flows, HR arrangements and other information needed to handle the transition effectively and to maintain the momentum of any ongoing and/or transferred work.
- 13.5. This agreement will be reviewed every three years, or sooner upon request of either party.

¹² This was required by 6 April 2013, and is required every four years thereafter