



Blood and Transplant

NHS BLOOD AND TRANSPLANT SCHEME OF DELEGATION

Reservation of Powers to the Authority

and

Delegation of Powers

March 2023

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1. INTRODUCTION

1.1 Objectives

NHSBT Standing Orders paragraph 4.1 provides that “subject to such directions as may be given by the Secretary of State, the Authority may make arrangements for the exercise, on behalf of the Authority, of any of its functions by a committee, sub-committee or joint committee or by the Chair or a member or by an officer of the Authority, in each case subject to such restrictions and conditions as the Authority thinks fit.”

The purpose of this document is to describe:

- the powers that are reserved to the Authority
- the powers that are delegated to the Authority’s Committees
- the powers delegated to officers of the Authority
- the responsibilities of officers for the application of policies and procedures.

NHSBT holds funds in trust. These delegations of powers are to be deemed to cover the exercise of these powers in relation to the responsibility of the Authority as a corporate trustee.

1.2 Role of the Chief Executive

The Chief Executive, as NHSBT Accounting Officer, is responsible to Parliament for the stewardship of the resources provided to the Authority.

The Chief Executive shall exercise the powers of the Authority that have not been retained as reserved by the Authority or delegated to a sub-committee or joint committee on behalf of the Authority. The Chief Executive shall prepare a Scheme of Delegation identifying which functions they shall perform personally and which functions have been delegated to other officers. The term ‘Officer’ includes ‘officer members, executive directors, and any other employees of the Authority to whom powers have been delegated.

All powers delegated to Officers by the Chief Executive can be re-assumed by the Chief Executive should the need arise.

1.3 Caution over the use of delegated powers

Powers are delegated to officers on the understanding that they would not exercise delegated powers in a matter that, in their judgement, was likely to be a cause for public concern.

1.4 Directors ability to delegate their delegated powers

The Scheme of Delegation shows only the “first level” of delegation within the Authority. The Scheme is to be used in conjunction with the system of budgetary control and other established procedures within the Authority.

1.5 Absence of an officer to whom powers have been delegated

In the absence of an officer to whom powers have been delegated, the powers shall be exercised by the officer’s superior unless temporary alternative arrangements have been formally delegated and the Chief Financial Officer notified of this temporary delegation.

2. OVERALL ACCOUNTABILITY

- 2.1** The NHSBT Board is responsible for establishing and delivering NHSBT's strategic objectives and for ensuring the effectiveness of the Authority's internal controls and risk management processes.
- 2.2** The Chief Executive of NHSBT Executive is responsible for executing the statutory and strategic objectives of the Authority and for delivering the relevant objectives and targets that apply to each of the organisational units within the Authority. The Chief Executive of NHSBT is responsible for monitoring performance against those objectives and targets and taking corrective action as necessary.
- 2.3** The Chief Executive of NHSBT is accountable for preparing an annual business plan and budget that are presented to the Board for approval. Once agreed, officers have the authority to implement the proposals contained in the Business Plan that relate to their area of accountability, subject to any limits imposed by the Scheme of Delegation.
- 2.4** The submission of the annual budget to the DH&SC, which encompasses requests for capital and programme funding, is the responsibility of the Authority. Once agreed the final capital and programme funding allocations are applied to the organisational units of the Authority in accord with its annual business plan.
- 2.5** NHSBT is subject to expenditure controls and delegated limits determined by the Cabinet Office and deployed by the DHSC. These are described in detailed expenditure rules and delegations provided by the DHSC. They are captured in within Section 10 as a high-level summary, particularly with regard to expenditure on professional services, marketing, ICT and estates. Further guidance can be found in the detailed guidance and interpretation of Departmental controls issued by the Chief Financial Officer.

3. RESERVATION OF POWERS TO THE AUTHORITY

- 3.1.** The Code of Accountability which has been adopted by the Authority requires the Authority to determine those matters on which decisions are reserved to itself. These reserved matters are set out below.

3.2. General Enabling Provision

The Authority may determine any matter it wishes in full session within its statutory powers.

3.3. Regulations and Control

- 3.3.1** Requiring and receiving the declaration of members' interests and determining the extent to which a member with any conflict of interest may remain involved with a matter under consideration.
- 3.3.2** Requiring and receiving the declaration of interests from officers.
- 3.3.3** Disciplining members who are in breach of statutory requirements or Standing Orders.

- 3.3.4 Approval of the disciplinary procedure for officers of the Authority.
- 3.3.5 The adoption of the high level corporate organisational structure, processes and policies necessary to facilitate the discharge of the strategy of the Authority and to agree modifications thereto.
- 3.3.6 To receive reports from committees, which the Authority is required by the Secretary of State or other regulation to establish, and to take appropriate action thereon.
- 3.3.7 To confirm the recommendations of the Authority's Committees, where the committees do not have executive powers to establish terms of reference, and reporting arrangements of all sub-committees (and other committees if required).
- 3.3.8 Ratification of any urgent decisions taken by the Chair in accordance with SO 4.2 (Discretionary Powers).

3.4 Appointments

- 3.4.1 The appointment and dismissal of committees, sub-committees or joint committees.
- 3.4.2 The processes by which the approval of the appointment, appraisal, disciplining and dismissal of the officer members is conducted.
- 3.4.3 The processes for the appointment of officers who report to the Chief Executive and which of the officers are appointed as Officer Members.

3.5 Corporate & Business Plans, and Budgets

- 3.5.1 Definition of the strategic aims and objectives of the Authority.
- 3.5.2 Approval of the rolling 5 year NHSBT Business Plan.
- 3.5.3 Approval of the Annual Budget.

3.6 Direct Operational Decisions

- 3.6.1 Approval of significant business cases and projects, including the acquisition, disposal or change of use of land and/or buildings, consistent with the financial limits in Section 10.
- 3.6.2 To agree action on serious litigation, against or on behalf of the Authority, as described in the Scheme of Delegation.

3.7 Financial and Performance Reporting Arrangements

- 3.7.1 Approve the distribution of the Authority's financial allocation.
- 3.7.2 Continuous appraisal of the affairs of the Authority by means of the receipt of reports as it sees fit from members, committees, associate members and officers of the Authority as set out in management policy statements.
- 3.7.3 Approval of the opening or closing of any bank or investment account.

3.8 Audit Arrangements

- 3.8.1 To receive reports from the Audit Risk and Governance Committee (ARGC) meetings on audit matters and to take appropriate action.

3.9 Governance and Assurance

- 3.10.1 To receive reports on other governance and assurance matters from the Audit Risk and Governance Committee (ARGC) meetings and take appropriate action.

3.10 Approval of Annual Report and Accounts

- 3.10.1 Adoption of the Authority's Annual Report and Accounts following their approval by the ARGC.

3.11 Financial Limits

- 3.11.1 The financial limits reserved by the Board as set out in Section 10.

4 DELEGATION OF POWERS

4.1 Delegation to Committees

The Authority may determine that certain of its powers shall be exercised by its committees. The composition and terms of reference of such committees shall be that determined by the Authority from time to time save only that required by the Secretary of State and or the Charity Commissioners (including the need to appoint an Audit Risk and Governance Committee and a People Committee). The Authority shall determine the reporting requirements in respect of these committees. In accordance with SO 5.6 committees may not delegate executive powers to sub-committees unless expressly authorised by the Authority.

4.2 Powers Delegated to the Trust Fund Committee

- 4.2.1 Overall responsibility for managing the funds held on trust in accordance with the Terms of Reference agreed by the Authority.
- 4.2.2 Preparation of the Annual Report and Accounts of the Trust Fund.

4.3 Powers Delegated to the Audit Risk and Governance Committee

- 4.3.1 Overall responsibility for managing governance and audit matters in accordance with the Terms of Reference agreed by the Authority. This includes the implementation of an appropriate and independent internal audit service.
- 4.3.2 Approval of the Annual Report and Accounts of the Authority, on behalf of the Board, is delegated to the ARGC, and
- 4.3.3 Approval of:
 - a. Standing Orders (SOs)
 - b. Standing Financial Instructions (SFIs) for the regulation of its proceedings and business
 - c. The Scheme of Delegation (SoD), describing the matters reserved to the Authority and the powers delegated to officers of the Authority

4.4 Powers Delegated to the People Committee

- 4.4.1 Overall responsibility for the remuneration and contractual arrangements of the Chief Executive and Executives of NHSBT in accordance with the Terms of Reference agreed by the Authority. This includes the power to decide matters which cannot, for reasons of confidentiality, be reported in detail to the Board for ratification.
- 4.4.2 Notwithstanding the above, the power, via the Chair (in respect of the Chief Executive) and the Chair and the Chief Executive (in respect of Officers) to monitor and evaluate the performance of the Chief Executive and Officers of NHSBT. The Committee will also oversee and advise the Board on termination and severance arrangements and, on request of the Board, will undertake duties relevant to ensuring that a stable, experienced and viable team is in place at executive level.

4.5 Powers Delegated to the Chairman

- 4.5.1 Final authority in the interpretation of Standing Orders.
- 4.5.2 Calling meetings.
- 4.5.3 To act as the Chair in all Board meetings.
- 4.5.4 Discretionary powers as described under Section 4.2 of NHSBT Standing Orders.
- 4.5.5 Approval of the Annual Report and Accounts of the Trust Fund.

5 SCHEME OF DELEGATION TO OFFICERS

- 5.1 Standing Orders and Standing Financial Instructions set out the financial responsibilities of the Chief Executive, the Chief Financial Officer and other Directors.
- 5.2 This Scheme of Delegation covers only matters delegated by the Authority to Directors and certain other specific matters referred to in SFIs. Each Director is responsible for the delegation within their jurisdiction.
- 5.3 The Scheme of Delegation should be read in conjunction with the NHSBT Governance Framework which further describes the accountabilities of Directors for delivery of strategic and operational plans, management of risk and compliance (with law and regulatory matters).

6. POWERS DELEGATED TO THE NHSBT CHIEF EXECUTIVE

6.1. Administration

- 6.1.1 Ensure existing Directors and employees and all new appointees are notified of and understand their responsibilities within Standing Orders and Standing Financial Instructions.
- 6.1.2 To act as a signatory for the Authority on legal documents and contracts above the regulatory tender limits including leases and agreements under seal.

6.2. Finance

- 6.2.1 To approve any changes of Directorate/departmental budgets within overall agreed cash limits.
- 6.2.2 Demonstrate that the use of private finance represents best value for money and transfers risk to the private sector where Public/Private Partnership contracts are being considered
- 6.2.3 Nominate an officer to maintain an up to date Register of Contracts (non-Procurement and employee contracts) which the Authority has signed. Procurement and employee contracts are held and maintained by the Associate Director of Procurement (as nominated by the Chief Financial Officer) and the Chief People Officer.
- 6.2.4 Authority to approve items under the financial limits set out in Section 10.
- 6.2.5 Authority to release monies from any agreed Transition Fund (in consultation with the Chief Financial Officer).

6.3 Workforce

- 6.3.1 Approve organisational re-structuring proposals of a significant and fundamental nature to Directorates/departments.
- 6.3.2 Approval of appointment and grading of all staff who report to officers having a direct reporting line to the Chief Executive. This can be delegated to the People and Culture Partners in conjunction with Executive Directors.
- 6.3.3 Approval of all new posts appointed to Senior Manager Pay scales above AfC Band 8a or equivalent. This can be delegated to the People and Culture Partners in conjunction with Executive Directors.

7. POWERS DELEGATED TO THE NHSBT CHIEF FINANCIAL OFFICER

7.1. Administration

- 7.1.1 To keep the Seal of the Authority in a secure place and maintain a register of sealings.
- 7.1.2. To act as a signatory for the Authority on legal documents, contracts above the EU tender limits, including leases and agreements under seal.

7.2. Finance

- 7.2.1. Presentation of finance plans and budgets to the Board for approval and providing monthly reports to identify key variances.
- 7.2.2. Submitting the Authority's Statutory Annual Accounts to the Board.
- 7.2.3. To investigate any suspected cases of irregularity related to fraud or corruption in accordance with Secretary of State Directions.

- 7.2.4. To control the annual cash limits of the Authority and to agree with the DH&SC any brokerage arrangements.
- 7.2.5. Authority to approve items under the financial limits set out in Section 10.
- 7.2.6. Authority to release monies from any agreed Transition Fund, having the agreement of the Chief Executive.

7.3. Personnel

- 7.3.1. Approval of overseas travel outside of Europe for all Group Directors in the absence of the Chief Executive.
- 7.3.2. Approval of overseas travel outside of the UK for all Finance staff and for all other Authority staff in the absence of the relevant Executive Director.

8. POWERS DELEGATED TO DIRECTORS WITHIN THE NHSBT EXECUTIVE

- 8.1. The following powers are delegated to officers who are part of the NHSBT Executive within their own area of responsibility:
- To carry out the detailed proposals in the agreed annual Business Plan, subject to any restrictions on delegations of power as detailed in Section 10.
 - To determine policies and procedures providing that they are in line with overall Authority Policies and Guidelines.

8.2. Assets

- 8.2.1 Overall responsibility for all physical and information assets, and other assets under their control.

8.3. Personnel

- 8.3.1 Approval of overseas travel outside the UK for relevant staff in their Directorate.
- 8.3.2 Approval of confidentiality and non-disclosure agreements for staff, in consultation with the Chief People Officer.

8.4. Finance

- 8.4.1 Authority to approve items under the financial limits set out in Section 10, relevant to their own Directorate/Department.

9. POWERS DELEGATED TO INDIVIDUAL EMPLOYEES OF NHS BLOOD AND TRANSPLANT

- 9.1 In general, but subject to the financial limits described in Section 10, budget holders have delegated powers to spend up to the limit of their approved annual budget. However, all budget holders have a responsibility to improve cost effectiveness and to advise their relevant Executive Team Director of any significant under-spends as soon as possible. Where increases in expenditure budgets are deemed necessary,

due to additional activity, these must be approved by the Chief Executive.

- 9.2.** A project manager specifically appointed to manage a major capital project may have specific powers delegated to him which shall be approved in advance by the Chief Executive.
- 9.3.** All employees are responsible for security of the Authority's property, avoiding loss, exercising economy and efficiency in using resources and conforming to standing Orders, Standing Financial Instructions and financial procedures.
- 9.4.** All employees are responsible for reporting losses to their line manager in accordance with Authority procedure.
- 9.5.** All employees are responsible for abiding by the policies and procedures of the Authority which have been agreed by the NHSBT Executive Team and NHSBT Board.
- 9.6.** The NHSBT National Claims Managers nominated to administer the NHS Resolution insurance schemes have the power to authorise losses and special payments and DH&SC check lists, subject to the limits set out for Finance and Executive Directors and in accordance with DH&SC and Treasury guidelines.

| 10. SUMMARY OF FINANCIAL DELEGATED LIMITS | Director responsible for compliance | DHSC (CO/HMT) | NHSBT Board | Chief Executive | Directors / Director of Clinical Services/ Chief Financial Officer |
|--|-------------------------------------|--|------------------------------|--|---|
| Category of delegation | | | | | |
| New policy (DHSC v8) | CFO | All (HMT) | All | - | - |
| Projects (DHSC v8) (incl. VAT) (where project contains capital spend also see Capital spend approvals required) | CFO | £50m (HMT) | More than £3m and up to £50m | Up to £3m | Up to £0.5m Director (if on transformation portfolio) Plus Director DDTs (where contains IT spend) |
| Capital Spend within Projects (DHSC v8) (incl. VAT) | CFO | £1m (HMT) | More than £1m | Up to £1m | Up to £0.25m Director CFO notified of all CFO up to £0.5m Plus Director DDTs (where IT) |
| Asset Sales (DHSC v8) (incl. VAT) | CFO | £5m (HMT) | More than £5m | Up to £5m | Up to £1m |
| Property Facilities Management /Property (incl. Leases and acquisitions) *means all need prior approval by the PAM Board | CFO | More than £0m* | - | £0m | - |
| Advertising Marketing and Communications Link to CO control (DHSC v8) | DDx | £0m DHSC | £0 DHSC all | | |
| Digital (DHSC v8) | CDIO | >£0m (NHSTD) | | | |
| Technology (DHSC v8) | CDIO | £0.1m (NHSTD) | | | CDIO<£0.1m |
| Commercial Control (all procurement contracts OBC approval in advance to award, approval to extend, disputes) (DHSC v8). ----- | CFO | More than £10m (ex VAT) ----- | More than £10m (ex VAT) | Up to £10m (ex VAT) ----- | Up to £50k (ex VAT) by PO Up to £1m (ex VAT) CD ¹ Up to £3m (ex VAT) Directors plus CFO ----- |
| Contingent Labour (OBC / FBC approval required in advance and also for extensions) | CFO | More than £900/day (inc VAT) plus SCAP | | More than £900/day (inc VAT) plus SCAP | Up to £900/day (inc VAT) Directors + SCAP Below £245/day (inc VAT) Directors |

¹ using CFO delegation. All contracts reviewed by CFO on pipeline.

| 10. SUMMARY OF FINANCIAL DELEGATED LIMITS | Director responsible for compliance | DHSC (CO/HMT) | NHSBT Board | Chief Executive | Directors / Director of Clinical Services/ Chief Financial Officer |
|---|-------------------------------------|-------------------------------------|----------------|--------------------------|--|
| Category of delegation | | | | | |
| Professional Services (OBC / FBC approval required in advance and also for extensions) | CFO | More than £200k (ex VAT) | | More than £200k (ex VAT) | Up to £50k (ex VAT) Directors Up to £200k (ex VAT) Director plus SCAP |
| Execution of contract if no material changes from FBC approval | CFO | | | | Up to £0.25m (ex VAT) Senior Commercial Lead Up to £0.5m (ex VAT) Commercial, Head of Up to £1m (ex VAT) Commercial, Associate Director Commercial Director unlimited |
| Contracts for R&D, collaborations, sales, service agreements. | CFO | More than £10m | More than £10m | Up to £10m | Up to £1m Head of Contracts Error! Bookmark not defined. Up to £3m Director plus CFO |
| Redundancy and compensation (DHSC v8) | CPO | More than £100k or 10 or more cases | | - | - |
| PILON | CPO | £50k or more | | | |
| Retention payments/VR schemes/ Confidentiality clauses/ ESM grade changes (DHSC v8)/ Staff Pay (DHSC v8) | CPO | More than £0 | | | |
| Grant Payment (CFO to review all changes to grant to test if rules apply) (DHSC v8) | DDx | More than £0 | | | |
| Clinical Negligence (DHSC v8) | CMO | More than £20m | | Up to £20m | Below £10m CMO |

| Category of delegation – professional and consultancy (DHSC v8) | Director responsible for compliance | DHSC (CO/HMT) | NHSBT Board | Chief Executive | Directors/ Director of Clinical Services/ Chief Financial Officer |
|--|-------------------------------------|---|-------------|-----------------|--|
| <u>Professional/ consulting services (excluding capital except where consultants used to produce business cases, and excluding outsourced services)</u> <u>Professional and consulting services >£200k</u> | Relevant Director | more than £200k DHSC PSBC and More than £750k Ministerial approval. | | < £200k | Up to £50k (ex VAT) Directors Up to £200k (ex VAT) Director plus SCAP (See responsibilities and flow below)** |
| <u>Professional / consulting – paid for time</u> (not deliverables) (contract workers/ temporary workers/ contingent labour) >£900 a day | CPO | more than £900 a day DHSC PSBC | | <£900 p/day | All contractors must be assumed inside IR35 and employment taxes paid, any exceptions require prior CFO approval (tax.assurance@nhsbt.nhs.uk) Below £245/day (inc VAT) Directors Above £245/day (inc VAT) SCAP Up to £900/day (inc VAT) Directors + SCAP (See responsibilities and flow below)** |

**Spend Controls Approvals Panel (new internal ET sub-committee, 22/23) will provide assurance on PSBC/C + CL Spend, escalate to CEO for approval – PSBC / C => £50k; CL => £245 p/day.

| Category of delegation – losses & special payments | Director responsible for compliance | DHSC (CO/HMT) | NHSBT Board | Chief Executive | Directors Director of Clinical Services/ Chief Financial Officer |
|---|-------------------------------------|--|----------------------------|--------------------------|---|
| Losses (as defined in Managing Public Money) (DHSC v8) (incl VAT). Must be approved promptly as they arise. | | | | | |
| Cash losses/bookkeeping losses/exchange rate fluctuations/overpayment of pay and allowances/ loss of pay other causes (excl fraud) | CFO | More than £300k | ARGC oversight | up to £300k | CFO only up to £200k |
| Losses of stores (Deliberate e.g. fraud or other e.g. out of date) / Fruitless Payments/ Constructive Losses/ Losses arising from failure to make charges for use of public property/services/ Claims waived or abandoned i.e. a valid claim that is not pursued or where settlement is agreed at a reduced amount Treasury pre-approval is required. | Relevant Director | More than £300k | ARGC oversight | up to £300k | All up to £100k CFO only up to £200k |
| Special Payments (as defined in Managing Public Money) (DHSC v8) (incl VAT) Must be approved in advance of payment | CPO / CFO | All payments | ARGC oversight | | |
| Donor claims / Extra contractual payments/ Compensation payments / Ex-gratia payments/ Extra statutory, extra-regulatory payments. | Relevant Director | More than £95k or £0k if NCR If HR related £20k | ARGC oversight | Up to £95k or £0k if NCR | Up to £50k or £0k if NCR National Clinical Claims Manager up to £10k |
| Special severance payments (All severance payments above statutory or contractual requirements) (excludes PILON/CILON see above) | CPO | HMT pre-approval ALL | People Committee oversight | 0 | 0 |

| Category of delegation - NHSBT additional internal delegation | Director responsible for compliance | DHSC (CO/HMT) | NHSBT Board | Chief Executive | Directors Director of Clinical Services/ Chief Financial Officer |
|--|-------------------------------------|-----------------|----------------|-----------------|--|
| Approval of donations or gifts (per case per annum).(excludes grants) (MPM A4.12) | CFO | More than £300k | More than £50k | Up to £50k | Up to £1k CFO notified of all. |
| Expenditure which relates to guarantees, indemnities or letters of comfort creating contingent liabilities | CFO | All | | | |
| Approval of sponsorship agreements per annum | DDX | | More than £50k | Up to £50k | Up to £1k |
| Items to be purchased from Petty Cash / Imprests to staff | CFO | | | | Up to £100 |
| Loans to staff e.g., in advance of travel expenses / travel loans | CFO | | | | Up to £10k CFO only |
| Overseas Travel | CFO | | | Over £2k | Up to £2k CFO only |
| Lease agreements (whole life costs) (including fleet and equipment leases) (excl property (see above) and employee car leases – covered by lease car policy) | CFO | | Over £1m | Up to £1m | Up to £500k CFO only |
| Advance Payments (in advance of need which leads to higher financing costs) (DHSC v8)* | CFO | | | | CFO only - approve all |
| Insurance arrangements (DHSC v8) | CFO | | | | CFO only - approve all |

*Excludes service and maintenance agreements

Responsibilities/ Flow for Consultancy and Professional Services Approvals [Nb – update per SCAP]

All PSBCs / CL's must be endorsed by the relevant SME before being approved by the Director:

- PSBC for Contingent Labour: Commercial Lead, Finance Business Partner, and People and Culture Partner
- PSBC for Consultancy and Professional Services: Commercial Lead and Finance Business Partner

Where the PSBC needs CEO and/or DHSCSC approval it must then be submitted to the Spend Controls Approvals Panel (SSCAP) via the following email address: scap@nhsbt.nhs.uk

| Budget Holder | Finance Business Partner | Commercial / People | SCAP | CEO | Financial Control | DHSC | |
|--|--|---|---|--|--|---|--|
| <p>PRE APPROVAL</p> <p>Identifies new or variation requirement where SCAP / DHSC approval is required and completes a PSBC</p> <p>•</p> | <p>Reviews and approve PSBC</p> <p>•</p> | <p>Is informed about PSBC</p> <p>•</p> | <p>Review => £50k</p> <p>Recommend to CEO approval, or</p> <p>Return to Director, with follow up questions.</p> <p>•</p> | <p>Receives recommendation from the SCAP – where over £200k also confirms approval for submission to DH</p> <p>•</p> | <p>Is informed about – post box to DHSC-</p> <p>Shares feedback on quality from DHSC to FBPs</p> <p>•</p> | <p>Approves or Rejects Business Case</p> <p>•</p> | |
| <p>POST APPROVAL</p> <p>Initiates procurement request following approval</p> <p>•</p> | | <p>Confirms approval from DHSC in place prior to procurement</p> <p>•</p> | <p>Following CEO approval – => £200k - Submit to the DHSCSC Sponsor Team</p> <p>•</p> | | <p>Reconciles DHSC PSBC submitted to spend. Confirms complementess of control to CFO & SCAP</p> <p>•</p> | | |
| <p>POST AWARD</p> <p>Checks PSBC approvals are not exceeded</p> <p>•</p> | <p>FBP's report</p> <p>•</p> | | <p>Periodic review of progress vs DH approvals</p> <p>•</p> | | | | |

Responsibilities/ Flow for Temporary staff Approvals (aligned with HMRC IR35 and CO controls)

| Budget Holder | Finance Business Partner | People | Commercial | SCAP | CEO | Financial Control | DHSC | |
|---|--------------------------|--|--|--|--|--|--|---|
| <p>PRE APPROVAL Identifies new or variation requirement.</p> <p>Approval to recruit obtained</p> <p>Tax assurance review for any outside IR35 and all over £245 a day</p> <p>If over £750 per day and <£900 per day and £200k.</p> <p>If over £900 a day and £200k completes a PBSC</p> <ul style="list-style-type: none"> • | <p>Budget confirmed</p> | <p>Approach agreed by AD P&C</p> <p>DD people approval</p> <p>Reviews PSBC Adds to log of items to DHSC for approval</p> <ul style="list-style-type: none"> • | <p>Procurement approach agreed if not PSR or CCS framework.</p> | <p>Review => £245 p/day</p> <p>Recommend to CEO approval, or</p> <p>Return to Director, with follow up questions.</p> | <p>Receives recommendation from the SCAP – where over £200k also confirms approval for submission to DH</p> | <p>Tax.assurance@nhsbt.nhs.uk Assess and approve</p> | <p>Approves or Rejects Business Case</p> <ul style="list-style-type: none"> • | <ul style="list-style-type: none"> • |
| <p>POST APPROVAL</p> <p>Initiates procurement request following approval (FBP,ADP&C, TA, DHSC as required)</p> <ul style="list-style-type: none"> • | | | <p>Confirms approval from DHSC in place prior to procurement</p> <ul style="list-style-type: none"> • | | | | | |

Delegations Glossary:

| | |
|---|--|
| ARGC | Audit Risk and Governance Committee |
| AD P&C | Assistant Director's People and Culture |
| CDIO | Chief Digital Information Officer |
| CD | Commercial Director |
| CMO | Chief Medical Officer |
| CO | Cabinet Office |
| Constructive losses | Goods services ordered and paid for but later proved to be not needed. |
| Consultancy and Professional – Services | The Cabinet Office instruct us to use these categories . Services have a Statement of Works agreeing deliverables in the contract. A service contract is primarily for deliverables (not people time). |
| Consultancy/ Professional paid for time | This category is defined by Cabinet Office . They are also known as temporary workers, contractors or contingent labour. |
| Compensation payments | A type of special payment . Non-donor related – Personal injury, traffic accidents, damage to property) (excludes severance related payments) |
| CPO | Chief People Officer |
| Director | This document uses 'Director' to mean any member of the Executive Team with a Director Title. This does not include those outside the Executive Team with a Director title. |
| DDx | Director Donor Experience |
| DHSC | Department for Health and Social Security |
| Digital & Technology | [Nb – confirm definition with Katherine Sowden / Rachel Hands] |
| ESM | Executive Senior Managers |
| Extra contractual payments | A type of special payment . Non-contractual payments but where there is an obligation that may be held up in court. Typically arising from action or inaction with regard to a contract. Includes payments where a settlement is reached without arbitration (excludes severance related payments) |
| Ex-gratia payments | A type of special payment . E.g. payments to meet hardship, out of court settlements to avoid legal action. (excludes severance related payments) |
| Extra statutory, extra-regulatory payments | Types of special payment – Payments within the broad intention of statute or regulation but go beyond a strict interpretation of terms (excludes severance related payments) |
| FAP | DHSCs Finance Approval Panel |
| CFO | Chief Financial Officer |
| FBP Finance Business Partner Fruitless payments | A type of Loss as defined under managing public money . Payments where NHSBT receives nothing useful in return and: should not have incurred the liability; or could have taken appropriate action to avoid incurring the liability. |
| HMT | His Majesty Treasury |
| Loss | Losses are not anticipated in Parliamentary approvals so need additional approval when they occur. Prior to reporting losses all options to recover should be explored. (A4.10.1 MPM) extract of managing public money examples of losses and special payments . Lessons learned should be considered in each case. These must be approved promptly. |
| MPM | Managing Public Money – a key HM Treasury finance guide to all public sector bodies |

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| NCR | Novel Contentious repercussive – a type of special payment which may have consequences outside of NHSBT and so for which NHSBT has no delegations to proceed without prior approval. |
| PILON | Pay in Lieu of Notice |
| Project | [Nb – confirm definition with Simi / TF] |
| PSBC | Professional Services Business Case |
| Special Payment | Are payments which are not legally due. They go beyond statute, contracts or policy (see A4.13 MPM) extract of managing public money examples of losses and special payments . Lessons learned should be considered in each case. These must be approved in advance. |

Delegations Questions and Answers

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| Q1 | Do Cabinet Office controls spends apply to NHSBT as ONS and our DHSC framework agreement define us as a Public Corporation? |
| A | CO have confirmed their controls do not apply; however, a Public Corporation's controls are determined by its sponsor department. DHSC have requested we comply and submit items for approval to DHSC aligned with the controls. Separate Cabinet Office approval will not be required for professional/ consultancy/ contingent labour. These delegations detail the controls NHSBT will apply and are shared and approved by DHSC sponsor (NHSBT continues to be 2021/22 controls). |
| Q2 | What does 'New policy' capture. Do DHSC need to approve new HR policies? |
| A | New Policy is a 'deliberately broad description'. DHSC want to see any proposal for a new business operation, a new activity or a new HR policy where this may create a new precedent or have significant financial impact. DHSC would not expect to see all new HR policies or other NHSBT policies but would for example want to see a policy that approved all colleagues to have 50 days leave as this would be novel have implications for the rest of the NHS and may lead to press headlines. If in doubt, please seek confirmation in writing from the Director responsible for the control. |
| Q3 | When a contract is greater than £3m and needs CEO approval according to Section 10 delegated limits how is this approval obtained? Does it need to be at Executive Team meeting? |
| A | The contract needs to have an NHSBT business case (5 case model) at the pre- procurement strategy stage to consider what is required and all the options for procuring it. The OBC should be sent to the Chief Executive to approve personally. The Chief Executive may request that the case is considered at Executive team prior to approving. This would typically be where it is a new area which has implications across NHSBT which need consideration and agreement at Executive Team. Where the contract requires signature (execution) this may be done per the execution levels above as long as it is materially in line with the OBC which was approved. |
| Q4 | My new project is valued between £0.1m and £0.5m so requires Director with responsibility for Transformation approval. Do I also need Exec approval? |
| A | The Executive Team will periodically agree what projects are on the portfolio and in the budget (Including some contingency projects without budgets). If your project is on the portfolio <u>and</u> in the budget the Director for Transformation will be able to approve the project without reference to Executive Team. If your project is not in the portfolio Executive Team will need to re-evaluate the portfolio before the Director for Transformation can approve your project. |
| Q5 | My project is more than £0.5m what approvals do I need? |
| A | A project over £0.5m needs approval by the Chief Executive (above £3m it also need Board approval). The project first needs to be on the project portfolio. The portfolio is agreed by Executive Team periodically. Prior to budget setting the portfolio will be agreed and then reassessed during the year subject to funding availability or a change in priorities etc. Once on the portfolio a budget will be given to the project. The project will then proceed to the next approval stage (OBC, FBC, Change controls). Project approvals must be obtained to proceed to the next stage. If a full business case needs approval and the project is expected to cost (for example) £600k. The Director must approve the case, the Director responsible for Transformation must approve the case (to vouch this is on the portfolio) and the Chief Executive must approve the case. If the case contains IT spend, marketing spend, professional or consulting spend the relevant pre-approvals must be obtained before any commitments are made. |
| Q6 | Are the delegated values cumulative value or the additional spend being approved at that time? |

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| A | The NHSBT internal approvals are for the spend being approved at that time. The case for approval should also outline the cumulative spend on the same item/contract/agreement and transactions should not be sub divided to avoid approval requirements. <u>However</u> the Cabinet Office spending controls (and related DHSC controls) are cumulative and so for example an £1 extension which takes a professional service to £200k would require approval of the whole case. |
| Q7 | Is my contract for Consultancy or Professional Services? And do I need to produce a Professional Service Business Case for DHSC approval? |
| A | Use the detailed procurement category definitions to determine whether your spend is consultancy, professional services or for example IT support spend. If your spend is consultancy or professional services it will require DHSC approval unless it is Capital (CO controls exclude capital expenditure, except where consultants are producing a business case for the capital) or spend on an ICT project which will be subject to NHSTD approval instead (also see Q8). |
| Q8 | I am getting pure consultancy advice (not delivery support) on an IT project. Do I need to complete a PBSC and obtain DHSC approval? |
| A | CDIO will make the final determination if a service is pure advice (consultancy) or delivery on any IT related support and obtain approval as necessary. |
| Q9 | DHSC have approved my marketing spend (including some professional and consultancy services) – do I need to gain approval from DHSC/Cabinet Office for the consultancy and professional service spend? |
| A | DHSC and CO have confirmed that NHSBT is out of the scope of CO spending controls. Note: CO confirmation on the marketing approvals required by CO is pending. DHSC require us to obtain their approval for consultancy and professional services (including those in marketing spend) where they are in the definition & scope of control. |
| Q10 | I am procuring advice or support from a consultancy firm (e.g. Deloitte/ Mckinsey) they are helping us deliver a programme. Do I need to obtain DHSC approval in advance by submitting a PBSC? |
| A | Cabinet Office have confirmed they use the procurement categories for the professional and consultancy control . It is the type of service being provided that determines if it is consultancy or professional service or another category of spend. If your spend falls under the definition of professional or consultancy it will requires approval via a PBSC (see Q7 for exceptions). |
| Q11 | Why does the Cabinet Office threshold for consultancy differ to the ones NHSBT apply? |
| A | The Cabinet Office Controls apply £100k and 3 months thresholds. DHSC draft delegations to NHSBT have £200k threshold and no time frame. <i>The CO controls do not directly apply to NHSBT as a Public Corporation so we are applying the DHSC £200k threshold only for consultancy and professional services spend.</i> |
| Q12 | My contract for consultancy or professional services includes day rates for teams delivering the work. Do I need to get this contract approved under the paid for time controls i.e. does the £900 a day threshold apply? |
| A | Cabinet Office confirm that contracts with a statement of works should be considered a service contract (i.e not paid for time/ contingent labour) and be approved in line professional and consultancy services delegations where applicable. Approval is not required under the contingent labour approvals where there is a statement of works for deliverables. |
| Q13 | I am employing a contractor what do I need to do to comply with IR35? |
| A | You must instruct the agent and contractor that they will be paid Inside IR35 and their employment taxes must be deducted by the agent prior to payment. If your contractor is paid more than £245 per day (inclusive of agency fee) you must request a tax assurance check . These will then be reported to DHSC. By exception, some arrangements may fall outside of IR35. You must obtain prior approval from tax assurance before contracting outside of IR35. The CFO will be the final arbiter on whether we can contract outside IR35. |
| Q14 | Does the contingent labour day rate threshold of £900 include VAT and Agency fee? |

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| A | The Cabinet Office definitions includes Agency fee and irrecoverable VAT. Note that (except for nurses in front line roles) VAT is irrecoverable for NHSBT contingent labour so £750 day rate + 20% irrecoverable =£900 a day. <i>However, as previously the Co controls do not directly apply to NHSBT so NHSBT will maintain the £900 a day rate exclusive of VAT</i> |
| Q15 | What is a gift or a donation? |
| | A gift or a donation is something voluntarily donated with no preconditions and no expectation of return (see MPM Annex 4.12). This includes gifts to staff from public money or donations to outside organisations. Managing Public Money requires all donations over £300k to have HMT approval. DHSC delegations V8 is currently silent on this but HMT approval would be sought via the DHSC sponsor team. |
| Q16 | I need to get approval from DHSC or HMT how do I do this? |
| A | You will need to draft a DHSC business case or a loss and special payment approval form . Ask your Finance Business Partner to review it and submit this to the Financial Accounts team to forward to DHSC. |
| Q17 | I have a loss to declare what do I do? |
| A | Please complete a loss approval form. This form will require a summary of the circumstances and ask you to consider how this could have been avoided and if there are any lessons to learn from this. Please submit the form for approval by your Director, then to Financial Accounts for submission to DHSC as required. |
| Q18 | I need to make a special payment what do I do? |
| A | Special payments are payments that we are not legally required to make and so should be exceptional and usually only originate from legal, HR, transport or health safety and wellbeing teams. They must always follow appropriate legal advice. You must complete an approval form for approval by your Director, then to Financial Accountants for submission to DHSC for approval in advance as required. |
| Q19 | I am dealing with a compensation payment, V8 of DHSC Delegations includes a limit of £500 for a consolatory payment. Are all compensation payments that don't include financial loss consolatory payments? And if so is DHSC approval required for any compensation cases where the recipient had no financial loss? |
| A | This is being clarified by DHSC sponsor. If in doubt for cases over £500 please draft a loss and special payment approval form , obtain your Director's approval and submit it to Financial Accountants to forward to DHSC. |
| Q20 | CO controls are £750 a day from 1st November 2021 do I need to obtain approval at this level? |
| A | No – See Q14 NHSBT is maintaining the approval threshold at £900 a day <u>excluding</u> VAT. |
| Q21 | Does the Board need to approve the procurement strategy for all commercial contracts |
| A | No – The board will consider the OBC for commercial contracts including the procurement options. For contracts below this threshold the Board will review the contract pipeline and could ask to review the strategy by exception. The Board should also approve any contracts which are novel and contentious regardless of value. The OBC and procurement strategy should consider all options for delivering the objectives as well as the various options for procuring the items. |
| Q22 | Can the Commercial Director of the Head of Contracts approve contracts they have been involved in drafting? |
| A | No signatories must ensure there is segregation and where they have been involved in writing the contracts they should decline to give the final approval – even if this is within their delegations. If in doubt contact the Director responsible. |