



**Commissioning Board**  
*A special health authority*

**Framework Agreement  
between the Department of Health and the  
NHS Commissioning Board Authority**

**January 2012**



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## **1. Introduction**

- 1.1.** The NHS Commissioning Board Authority ('the Authority') is a special health authority, established under section 28 of the NHS Act 2006.
- 1.2.** The Authority has been established in order to prepare for the proposed future establishment of the NHS Commissioning Board as an executive non-departmental public body (NDPB) of the Department of Health<sup>1</sup>.
- 1.3.** This framework agreement sets out the arrangements governing the relationship between the Department of Health ('the Department') and the Authority. Its purpose is to set out the respective roles and responsibilities of each party, the shared principles that underpin the relationship between the two organisations, and the arrangements for ensuring that the Department is able to discharge its responsibilities as sponsor and in relation to accountability.

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<sup>1</sup> The establishment of the NHS Commissioning Board is subject to legislation. All references to the Commissioning Board should be taken as including this point.

## **2. Aims and objectives**

- 2.1. The main role of the Authority is to prepare for the establishment and operation of the NHS Commissioning Board. The Authority's functions are specified in more detail in the Directions given to the body under section 7 of the NHS Act 2006. These are further supplemented by the letter from the Secretary of State setting out policy objectives for the Authority.<sup>2</sup>
- 2.2. The Authority's functions fall into four categories. In some cases, functions will be discharged in partnership with the Department. The first two categories will apply in phase one of the Authority's life – from establishment until the end of 2011:
- Business preparation
  - Designing the commissioning landscape.
- 2.3. The functions of the Authority in phase two, throughout 2012, will be developed further by the Authority's management team. These are anticipated to include:
- Planning for 2013/14, including the preparatory work for:
    - establishing and authorising clinical commissioning groups
    - issuing guidance for clinical commissioning groups, and
    - a commissioning outcomes framework.
  - Patient safety.<sup>3</sup>

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<sup>2</sup> Further Directions and letters may be issued as other functions and objectives are given to the Authority.

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<sup>3</sup> Due to the abolition of the National Patient Safety Agency, currently scheduled for July 2012, the Authority will take on operational patient safety responsibilities including providing overall strategy for patient safety, providing guidance for commissioning and provision of safer care through the use of data via the National Reporting and Learning System (NRLS). It will also oversee the running of the NRLS which will be hosted by a separate NHS organisation.

- 2.4. In addition to the functions to be undertaken directly by the Authority, there might be a period directly prior to the establishment of the NDPB where the Authority will act as a host organisation for the induction of staff into the NDPB. This would apply to functions that the NDPB would take up as soon as it was established, such as the establishment and authorisation of clinical commissioning groups.
- 2.5. It might also be necessary for the Authority to take on additional functions during its life. In these instances, the additional functions will be conferred by Directions under Section 8 of the NHS Act 2006 following discussion between the Department and the Authority.

### **3. Shared principles**

- 3.1. The Department and the Authority have agreed to work to a set of shared principles.
- 3.2. These are:
  - i. **Working together 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.
  - ii. **Recognition that the Secretary of State is ultimately accountable to Parliament and the public for the system overall.** The Authority will support the Department in the discharge of its accountability duties, and the Department will support the Authority in the same way.
  - iii. **Respect for the importance of autonomy throughout the system.** The Department will respect the Authority's autonomy, and will not interfere in its day-to-day operation or decision-making.
  - iv. **Working together openly and positively.** This will include working constructively and collaboratively with other organisations within and beyond the health and social care system.

#### **4. Roles, responsibilities and governance**

##### *The Department of Health*

- 4.1. The Department is responsible for overseeing the health and social care system. It will achieve its policy aims and those of the Government as a whole through its relationships with a number of arm's length bodies. The Department will discharge its responsibilities for oversight of the system by holding its arm's length bodies, including the Authority, to account.
- 4.2. The Secretary of State for Health has a number of specific responsibilities linked to his overall accountability for securing the provision of NHS services and for holding arm's length bodies to account:
  - Setting the Authority's budget
  - Setting out the policy priorities that the Authority should take into account
  - Appointing the Authority's Chair and non-executive board members, setting their terms and conditions and holding them to account for delivery of the Authority's objectives
  - Accounting to Parliament and the public for the Authority's financial performance and the delivery of its objectives
  - Accounting for the health and care system's overall delivery.

##### *The Permanent Secretary*

- 4.3. The Department's Permanent Secretary is its principal accounting officer (PAO). The PAO has appointed the Authority's Chief Executive as its accounting officer. The specific responsibilities associated with this are set out in paragraph 4.7 and in Annex B.<sup>4</sup>
- 4.4. The Permanent Secretary will appoint a Senior Departmental Sponsor (SDS). The SDS will ensure that accountability meetings are held bimonthly.

##### *The Authority*

- 4.5. The Authority is governed by its Board. This Board is led by a non-executive Chair, who is appointed by and responsible to the Secretary of State for ensuring that the Authority's affairs are conducted with probity, and that the Board's policies and actions support the Authority in the discharge of its functions and duties efficiently and effectively and meet the Secretary of State's policy objectives. The Secretary of State will appoint the Chief Executive of the Authority. The Chair, Chief Executive and non-executive directors will be responsible for appointing the executive directors.

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<sup>4</sup> David Nicholson will be Chief Executive of the Authority and will retain his current role as the Chief Executive of the NHS. As the accounting officer for the Authority, he will account to Parliament for the Authority in the usual way. As an accounting officer of the Department, he will also continue to account to Parliament for the relevant sections of the Parliamentary Estimate.

4.6. The Board of the Authority is collectively responsible for:

- Defining the vision and values, culture and strategy of the Authority
- Agreeing appropriate governance and internal controls
- Ensuring sound financial management and good value for money
- Ensuring controls are in place to manage financial and performance risks, including ensuring the Authority has the capability to deliver
- Using information appropriately to drive improvements
- Supporting the executive management team and holding it to account.

4.7. The Chief Executive, as the Authority's accounting officer, has specific responsibility for:

- Safeguarding the public funds and assets for which the Chief Executive has charge
- Ensuring propriety and regularity in the handling of those funds
- The day-to-day operations and management of the Authority
- Ensuring that the Authority is run on the basis of the standards (in terms of governance, decision-making and financial management) set out in *Managing Public Money*.

## **5. Assurance and accountability**

- 5.1. The Department and the Authority will adopt proportionate and risk-based management arrangements to ensure that they can each discharge their responsibilities appropriately.
- 5.2. The Authority will publish a business plan setting out how it intends to achieve its objectives and carry out its functions and duties. The business plan must be agreed with the Department.

### *Parliamentary accountability*

- 5.3. The Authority and the Department have agreed to put in place named contacts, adequate resources and robust processes to deal with the handling of public enquiries, correspondence, Parliamentary questions, Freedom of Information requests and complaints. These will meet Parliamentary expectations and timescales (including the Whitehall deadline).

- 5.4. As Parliamentary protocol requires Ministers to respond to debates and Parliamentary questions, the Authority has agreed to provide the Department with briefing that enables Ministers to account on behalf of the Authority.
- 5.5. Where it is helpful to do so, Ministers will explain relevant organisational responsibilities (including those of Ministers themselves) and, where appropriate, Ministers will encourage Members of Parliament to liaise directly with the Authority.

- 5.6. The Department and the Authority have agreed to give sufficient notice of requests and provide timely responses in order to meet Parliamentary deadlines.

### *Communication*

- 5.7. To underpin the principle of good communication, the Authority and the Department will put in place arrangements for managing communications. Further details are provided in Annex D.

## **6. Finance, accounting and audit arrangements**

### *Funding allocation*

- 6.1. As part of the Department's annual business planning cycle, the Authority will produce a business plan demonstrating how delivery of the overarching functions will be achieved. The Department will provide guidance to support this process, which will include a target budget.
- 6.2. The Authority must operate within the resources allocated to it by the Department. If it fails to do so, the Comptroller and Auditor General may qualify its annual accounts and refer the matter to the Public Accounts Committee. The Authority must also operate within the delegated authorities issued by the Department.

### *Reporting*

- 6.3. The Department is required by HM Treasury to report in-year financial performance and year-end forecast of all its arm's length bodies, and the Authority will provide the relevant information to enable the Department to meet HM Treasury deadlines.

### *Accounting*

- 6.4. At the end of each financial year, as part of the Secretary of State's accountability to Parliament and the public, the Department is required to prepare a group account that consolidates the individual accounts of all organisations that come within the Resource Accounting boundary as defined by HM Treasury. From 2011-12, the accounts of all arm's length bodies (including the Authority), and all strategic health authorities, primary care trusts, NHS trusts and NHS foundation trusts will be consolidated into the Department's group account. To provide accounting consistency across the group, the Department will ensure that the individual accounts of all consolidating organisations are completed to a common format and under a single set of accounting instructions.
- 6.5. Consequently, the Authority will be required to prepare its annual accounts according to the form, content and timetable specified by the Secretary of State in his annual group accounting instructions.

*Audit*

- 6.6. The Authority is responsible for establishing and maintaining internal audit arrangements in accordance with HM Treasury's Government Internal Audit Standards (GIAS). The Department's Audit and Risk Committee remit includes risk management, corporate governance and assurance arrangements in all its subsidiary bodies, and the Authority must therefore consider its priorities as part of internal audit arrangements.
- 6.7. The Comptroller and Auditor General audits the Authority's annual accounts and lays them before Parliament, together with his report.
- 6.8. Further details of the Authority's financial arrangements, including funding allocation, in-year reporting, preparation of accounts, delegations, and the accounting officer's responsibilities in relation to financial management and the Authority's accounts, are provided in Annex B.

## **7. Corporate governance and staffing**

### *Corporate governance*

7.1. The Authority's executive and non-executive board members will operate within the corporate governance guidelines set out by HM Treasury and the Cabinet Office<sup>5</sup>. All staff and board members will comply with the principles in the Cabinet Office's model code of conduct<sup>6</sup>, which includes rules on conflicts of interest, political activity and restrictions on lobbying, and with the rules on disclosure of financial interests contained in the regulations on the membership of the Board.

### *Human Resources and remuneration*

7.2. The Authority is responsible for recruiting staff, but should comply with any departmental or government-wide recruitment controls. The Department will ensure that the Authority is made aware of any such controls.

7.3. Very senior staff in the Authority may be subject to additional governance as specified by HM Treasury, Cabinet Office, and the Department. The Department will ensure that the Authority is aware of any such requirements or restrictions.

7.4. The Secretary of State will issue Directions to determine the remuneration and terms and conditions (including pensions) of the Authority's staff.

7.5. Like all departments and arm's length bodies, the Authority will be required to follow any requirements for disclosure of pay or pay-related information.

### *Transparency*

7.6. The Authority is an open organisation that carries out its activities transparently. It will demonstrate this by proactively publishing 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 Office.

7.7. The Department and the Authority will share information with each other and with other organisations where appropriate.

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<sup>5</sup> [http://www.hm-treasury.gov.uk/psr\\_governance\\_corporate.htm](http://www.hm-treasury.gov.uk/psr_governance_corporate.htm)

<sup>6</sup> [http://www.civilservice.gov.uk/wp-content/uploads/2011/09/5\\_public\\_body\\_staffv2\\_tcm6-2484.pdf](http://www.civilservice.gov.uk/wp-content/uploads/2011/09/5_public_body_staffv2_tcm6-2484.pdf)

## **8. Efficiency and shared services**

### *Efficiency*

- 8.1. The Authority 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.
- 8.2. The Authority, as with all public bodies and government departments, must operate within any existing 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 the Authority is kept informed of any efficiency controls in operation.

### *Shared services*

- 8.3. As part of the government's approach to managing and delivering public service at a reduced cost base, the Authority, as with all other arm's length bodies and the Department, will in future receive its back office support, including ICT, through a shared or standardised service approach. Details of the services and the contractual arrangements between the Authority and the service provision will be set out in a service level agreement (SLA). Any amendments to the SLA for a change in service specification or change in provision will require authorisation from the Department.
- 8.4. A shared or standardised value for money approach will also apply to the use of estate. The Authority will comply with guidance on property and asset management, as set out in Annex A, and the principles set out by the Department's Estate Strategy Optimisation Board.

Framework agreement signed by:



Richard Douglas  
Director General, Policy,  
Strategy and Finance

Date: 10 January 2012

On behalf of the Department  
of Health



Sir David Nicholson  
Chief Executive

Date: 10 January 2012

On behalf of the NHS  
Commissioning Board Authority



Professor Malcolm Grant  
Chair

Date: 10 January 2012

On behalf of the NHS  
Commissioning Board Authority