



Framework Agreement between DHSC and NHS Improvement

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Lee McDonough
Director General
Acute Care & Workforce



Ian Dalton CBE
Chief Executive, NHS Improvement

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(On behalf of the Department)

(On behalf of NHS Improvement)

1. Purpose of this document

- 1.1 The purpose of this document is to define the critical elements of the relationship between the Department of Health and Social Care (the Department) and NHS Improvement (NHSI). The document is focused on:
- how the Department and NHSI will work in partnership to serve patients, the public and the taxpayer; and
 - how both NHSI and the Department discharge their accountability

2. NHS Improvement

- 2.1 NHSI is the operational name for the organisation which brings together two distinct legal entities, Monitor and the NHS Trust Development Authority (TDA), along with four teams from other bodies (Patient Safety Domain and the Advancing Change team from NHSE, the National Reporting and Learning System and Intensive Support Teams from NHS Interim Management and Support).
- 2.2 Consequently, where this document refers to, for example, autonomy, functions, duties, board, accounting officer, chief executive, allocated money or accounts of NHSI, that should be read as meaning either Monitor or TDA or both as the case may be, in the context of their relevant statutory provisions.
- 2.3 NHSI brings together the individual statutory functions of Monitor and the TDA under one unified board and operating model. The Department expects NHSI to fulfil a dual role as the system leader for improving as well as supervising NHS trusts and NHS foundation trusts (Providers).
- 2.4 NHSI will use a single, consistent approach to measuring and overseeing the performance of providers. Their approach to measurement and assessment will align with partners such as the CQC and NHSE to ensure there is a single, and simple, definition of success for providers, and they will support providers in, and hold their boards to account for, delivering against this standard.

The Department and NHSI have agreed to work to a set of principles. These are:

- Working together in the interests of patients, people who use services and the public to maximise the health and well-being gain for the population, and working to the values set out in the NHS Constitution.
- Respect for the importance of autonomy throughout the system. The Department will respect NHSI's independence of judgement, and will not interfere in its day-to-day operations or decision making.
- Working together openly and positively. This will include working constructively and collaboratively together and with other organisations within and beyond the health and social care system.
- Recognition that the Secretary of State is ultimately accountable to Parliament and the public for the system overall. NHSI will support the Department in the

discharge of its accountability duties, and the Department will support NHSI in the same way.

3. Governance

3.1 NHSI is led by a board made up of:

- a Non-Executive Chair;
- at least four other non-executive members;
- a Chief Executive; and
- other executive directors provided the total number of executive members is 5 or fewer and fewer than the number of Non-Executive Directors

3.2 The Permanent Secretary has appointed a Senior Departmental Sponsor (SDS) who acts as NHSI's designated consistent point of contact within the Department. The SDS acts as the link at executive level between NHSI 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 NHSI and other parts of the Department and ministers, it also supports the Permanent Secretary in holding NHSI to account and provides assurance on its performance . The SDS is supported by a Departmental sponsor team, which is the principal day-to-day liaison point between the Department and NHSI.

Process for setting objectives

The process for setting NHSI's objectives is through an annual remit letter from Ministers detailing their expectations for the coming year . This letter is published on the Government website. These objectives will be set within and align with the context of the overall health system set by the Department and NHSI will reflect them in their planning and operations.

3.3 NHSI will produce a business plan each year demonstrating how it will meet its legal duties and deliver its objectives. The Department provides guidance to support this process, which includes target budgets covering administration, programme, revenue and capital funding. NHSI will reach agreement each year with the Department on its business plan. To facilitate comment from the Department, business plans are shared and discussed in advance of clearance with the NHSI's Board. NHSI will be made aware of any concerns the Department may have.

3.4 In turn, NHSI will work with providers to support them in producing their business plans as well as signing them off/agreeing them

Discharge of statutory functions

- 3.5 NHSI ensures that it has appropriate arrangements in place for the discharge of each of the statutory functions for which its constituent statutory bodies are responsible for, and is clear about the legislative requirements associated with each function, in particular, any restrictions on the delegation of those functions. It ensures that it has the necessary capacity and capability to undertake those functions, and ensures that it has the statutory power to take on a statutory function on behalf of another person or body before it does so. NHSI also ensures that there is periodic audit of the discharge of its statutory functions so that the delivery of them remains effective, efficient and legally compliant. NHSI 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.

Cross-government clearance

- 3.6 In addition to internal governance, cross-government clearance is required for major new policy decisions of the type set out in Cabinet Office guidance. Although such cases are likely to be small in number, the Secretary of State is responsible for obtaining clearance and NHSI 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, NHSI will supply the Secretary of State with any information they need in a timely fashion.

4. Accountability

Secretary of State

NHSI is accountable to Parliament, the Secretary of State and to the Department's Principal Accounting Officer (PAO). The text below focuses on NHSI's accountability to the Secretary of State and the Department.

4.1 The Secretary of State is accountable to Parliament for the provision of the health system (its "steward"), including NHSI, and has to comply with a range of duties, including exercising functions with a view to securing the continuous improvement in the quality of NHS services. The Department supports the Secretary of State in their 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 budgets across the health system, including for NHSI;
- setting objectives for NHSI;
- 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 the providers' performance and the effectiveness of the health and care system overall.

To support this accountability, the Minister responsible for holding NHSI to account chairs regular accountability meetings with NHSI. These take place bi-annually and are attended by the NHSI Chair and Chief Executive, the SDS and representatives of the sponsorship team. The focus of the meeting is on strategic and topical issues and any issues of delivery which the SDS or NHSI believes it is appropriate to raise. These meetings are structured to promote openness, constructive challenge and the identification and resolution of strategic issues.

The Principal Accounting Officer (PAO) and NHSI's Accounting Officer

- 4.2 The Department's Permanent Secretary is the PAO and so is accountable to Parliament for the general performance of the health and care system in England, including NHSI. This requires the PAO to gain assurance that NHSI is discharging the statutory duties of Monitor and NHS TDA and meeting the objectives set out in the remit letter from the Secretary of State to the Chairman of NHSI. In this way the PAO is able to report to Parliament on the Department's stewardship of the public funds it distributes and manages and for which it holds overall accountability.
- 4.3 The Department's Permanent Secretary, as the Department's PAO, has appointed NHSI's Chief Executive as its Accounting Officer (AO). The AO may be called to Parliament to account for the performance of NHSI in Parliament. The PAO can also be held to account in Parliament since the PAO's oversight should allow them to assess the adequacy of NHSI's stewardship of public funds and discharge of its duties. This assessment includes making judgements about whether NHSI 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 NHSI's performance relies upon the provision of information, and processes to enable both parties to review performance. The information provided to the Department by NHSI includes (not an exhaustive list):
- annual report;
 - quarterly in-year and year end performance against budgetary controls;
 - corporate risk register and update on the key risks to NHSI's delivery, including new risks;
 - Annual Governance Statement;
 - full bi-monthly NHSI Board papers detailing progress in the NHS provider sector;
 - information to inform quarterly and bi-annual accountability meetings with the Department; and
 - annual, quarterly and monthly NHSI returns to the Department and other government departments in relevant functional areas (eg finance returns).

4.5 The processes in place to enable the Department to review NHSI's performance are:

- an annual accountability meeting chaired by responsible Minister;
- mid-year accountability meeting with the responsible Minister;
- quarterly sponsorship meetings between the SDS and the Chair and Chief Executive of NHSI; and
- Monthly accountability meetings between the sponsorship team and senior colleagues in the NHSI.

The NHSI Accounting Officer and the provider sector

4.6 In turn, the Chief Executive of NHSI gains assurance from individual providers that they are discharging their duties and meeting their financial and performance objectives through a single operating model. NHSI ensures that it receives sufficient timely information, including monitoring activity against annual plans and maintaining oversight of key quality, governance, finance and sustainability standards, to enable it to assess the performance of each provider in order that it can give the Department a clear account of the quality of its implementation of its functions. Details of this are set out in the [NHSI's Single Oversight Framework..](#)

4.7 NHSI must provide a copy of its annual report to the Secretary of State detailing its activities for each financial year.

4.8 NHSI 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 NHSI must be spent on the statutory functions of Monitor and NHS TDA. If any funds are spent outside the statutory functions of Monitor and NHS TDA the Department could seek adjustments to the grant in aid for running costs (administration) to compensate.

4.8.2 If the Secretary of State considers that NHSI is significantly failing in its duties and functions, they may intervene and issue directions to Monitor (subject to section 71 of the Health and Social Care Act 2012) and/or NHS TDA (subject to s8 of the NHS Act 2006). In the first instance, the Secretary of State could direct Monitor and/or NHS TDA about how it carried out its functions. If NHSI failed to comply

with such directions, the Secretary of State could either discharge the function himself, or make arrangements for another body to do so on his behalf. The Secretary of State will always publish reasons for any intervention.

5. NHS Improvement's Board

- 5.1 NHSI is governed by its Board, which establishes and takes forward the strategic aims and objectives of NHSI, consistent with its overall strategic direction and within the policy and resources framework determined by the Secretary of State. The role of the board is as described in the [corporate governance code](#) for central government departments and includes holding its executive management team to 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 NHSI's affairs are conducted with probity, and that NHSI's policies and actions support it in the discharge of its functions and duties efficiently and effectively and meet NHSI's objectives, including those set out in its business plan. The SDS ensures that there is an annual objective setting and review process in place for the Chair. The Chair, Chief Executive and non-executive directors will be responsible for appraising the executive directors.
- 5.3 NHSI's Chair and non-executive directors are appointed by the Secretary of State. A non-executive director functions as deputy chair. Appointments are transparent, are made on merit, and are regulated by the Commissioner for Public Appointments. The Chair appointment is subject to pre-appointment scrutiny by Parliament.
- 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 NHSI;
 - ensuring that NHSI 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 NHSI's financial performance and the delivery of its objectives;

- accounting to the Department's Permanent Secretary, who is PAO for the whole of the Department's budget, providing a line of sight from the Department to NHSI; and
- reporting quarterly to the PAO on performance against NHSI's objectives, through the formal quarterly accountability meetings.

5.5 The board ensures that effective arrangements are in place to provide assurance on risk management, governance and internal control. The board has 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.

5.6 The responsibilities of the board as a whole include supporting the Accounting Officer in ensuring that NHSI 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.

6. Partnership working

- 6.1 The Department and NHSI 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, NHSI and the Department 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 NHSI. In the same way, the Department seeks to keep NHSI apprised of developments in policy and Government. There are likely to be some issues where the Department or NHSI expect to be consulted by the other before the Department or NHSI makes either a decision or a public statement on a matter. The Department and NHSI will make clear which issues fall into this category in good time. The sponsor team is responsible for ensuring that this works effectively.
- 6.2 To support the Secretary of State and the PAO in their accountability functions, the Secretary of State has the power to require NHSI to disclose to him or her such information as they feel is necessary to fulfil their duties with respect to the health system. It is therefore expected that the Department will have full access to NHSI's files and information. If necessary, the SDS's team is responsible for prioritising these requests for information.
- 6.3 The Department and NHSI work together to ensure that relevant information is shared between the two organisations in a timely way.

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 is often demonstrated through parliamentary questions, MPs' letters and appearances before parliamentary committees. Accountability to the public may be through the publication of information on NHSI'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, NHSI supports the Department by, amongst other things, providing information for ministers to enable them to account to Parliament. In

turn, the Department provides leadership to the system for corporate governance, including setting standards for performance in accountability.

- 6.6 NHSI, however, has its own responsibilities in accounting to the public and to Parliament, and its way of handling these responsibilities is agreed with the Department. In all matters of public and parliamentary accountability the Department and its ALBs work together considerately, cooperatively and collaboratively, and any information provided by NHSI will be timely, accurate and, where appropriate, consistent with information provided by the Department. To facilitate this, the Department and NHSI have agreed a public and parliamentary accountability protocol that sets out how they 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 NHSI is an open organisation that carries out its activities transparently. It demonstrates this by proactively publishing on its website its annual report, accounts and 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. The annual report includes a governance statement, which is reviewed by the SDS. NHSI holds open board meetings in line with the Public Bodies (Admission to Meetings) Act 1960.
- 7.2 To underpin the principles of good communication, ‘no surprises’ and transparency, NHSI and the Department put in place arrangements for managing communications. Further details are provided in Annex C
- 7.3 NHSI’s executive and non-executive board members operate within the general principles of the [corporate governance guidelines](#) set out by HM Treasury. They also comply with the Cabinet Office’s [Code of Conduct for Board Members](#) of Public Bodies and with NHSI’s Board’s rules on disclosure of financial interests.
- 7.4 NHSI will develop 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 bodies](#).
- 7.5 NHSI 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; and
 - 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.

- 7.6 NHSI'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.
- 7.7 NHSI, as with the Department and all its ALBs, should have whistleblowing policies and procedures in place that comply with the Public Interest Disclosure Act 1998 and [best practice guidance](#). It should prohibit 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, NHSI 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, NHSI should comply with the [Greening Government Commitments](#) that apply to all government departments, executive agencies and non-departmental public bodies, set out in the action plan for driving sustainable operations and procurement across government. Reporting will be via the Department (including the consolidation of relevant information in the Department's annual resource account), and the Department will ensure that NHSI is aware of the process for this

8. Audit

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

9. Delegations and financial management

- 9.1 Details of the NHSI's financial arrangements, including funding allocation, in-year reporting, preparation of accounts, and the accounting officer's responsibilities in relation to financial management and NHSI's accounts, are provided in Annex B
- 9.2 NHSI's overall revenue and capital resources are set out each year in a letter from the SDS to the Chief Executive of NHSI. This is based on an assessment by the Department of NHSI's proposals for funding and human resourcing, considered alongside the financial and human resourcing needs of all of the Department's arm's length bodies. The Department will endeavour to provide NHSI with sufficient human and financial resources to deliver its agreed core functions.
- 9.3 NHSI's delegated authorities are issued to it by the Department, including those areas where NHSI must obtain the Department's written approval before proceeding. NHSI will adhere to these delegated authorities.
- 9.4 NHSI 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.
- 9.5 NHSI, 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 NHSI is kept informed of any efficiency controls in operation.
- 9.6 As part of the government's approach to managing and delivering public service at a reduced cost base, NHSI, 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 NHSI and the service provider will be set out in contract or where appropriate a service level agreement.
- 9.7 A shared or standardised value for money approach will also apply to the use of estate. NHSI will comply with guidance on property and asset management, and the principles set out by the Department's Property Asset Management Board.

10. Risk management

- 10.1 NHSI 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](#). It will adopt and implement policies and practices to safeguard itself against fraud and theft, in line with [HM Treasury guidance](#). 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 whom it gives financial assistance including giving grant or grant-in-aid.
- 10.2 NHSI will develop a reporting process to assure its board of financial and operational performance against the business plan at its meetings (held every eight weeks). 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. NHSI and the Department will agree a process and trigger points for the escalation of risks to its Audit and Risk Committee (ARC), where those risks will have a potentially significant impact on NHSI, the Department or the wider system that requires a co-ordinated response.
- 10.3 Risks to the wider system that arise from NHSI's operations, identified by NHSI, the Department or another body, will be flagged in the formal quarterly accountability meetings chaired by the SDS. Such risks may also be flagged by NHSI's Board and escalated to the Department's ARC for consideration. It is the responsibility of NHSI and its sponsor to keep each other informed of significant risks to, or arising from, the operations of NHSI within the wider system.
- 10.4 NHSI will have 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 NHSI is responsible for recruiting staff, but complies with any departmental or government-wide recruitment controls. The Department ensures that NHSI is made aware of any such controls. Very senior managers in NHSI are subject to the Department 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 ensures that NHSI is aware of any such requirements or restrictions.
- 11.2 NHSI must obtain the approval of the Secretary of State in respect of policies relating to remuneration, pensions, allowances or gratuities.
- 11.3 Very senior manager remuneration is subject to the government response to the recommendations of the Senior Salaries Review Body.
- 11.4 In relation to pensions, the organisational pension scheme is the Civil Service Pensions Scheme (for Monitor employees) or the NHS Pensions scheme (for NHS TDA employees) which is administered by the NHS Business Services Authority. Each scheme has rules set down in legislation.
- 11.5 Like all departments and arm's length bodies, NHSI is required to follow any requirements for disclosure of pay or pay-related information.
- 11.6 Subject to its financial delegations, NHSI is required to comply with the Department's and HM Treasury's approval processes in relation to contractual redundancy payments and any non-contractual payments. All novel or contentious payments require the Department's and HM Treasury's approval. Special severance payments are always considered novel or contentious (this includes any proposal to make a payment as a result of judicial mediation).

Equalities

- 11.7 The public sector equality duty requires NHSI (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.

The specific duties require NHSI, 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 (This was required by 6 April 2013, and is required every four years thereafter).

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

- 12.1 NHSI works 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.
- 12.3 Where helpful, partnership agreements detailing joint working arrangements will be put in place with NHSI's key national partners including NHS England (NHSE), Health Education England and the Care Quality Commission (CQC).

13. Review

The objectives for NHSI are set in a remit letter from the Secretary of State for Health. A new remit letter covering the next financial year will be sent to NHSI annually.

- 13.1 The Department regularly reviews NHSI's performance at formal accountability meetings. In addition, the Department will undertake a tailored review of NHSI, as well as its other arm's length bodies, during each parliament.
- 13.2 The NHS TDA is established by the National Health Service Trust Development Authority (Establishment and Constitution) Order 2012 (S.I. 2012/901). Monitor was established by the [Health and Social Care \(Community Health and Standards\) Act 2003](#) and it continues under section 61 of the Health and Social Care Act 2012. NHSI is an operational structure that formalises closer working between the two organisations. Any change to either of the constituent bodies' core functions or duties, including mergers, significant restructuring or
- 13.3 abolition would therefore require further primary or secondary 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 NHSI so the Department can obtain independent assurance on key transactions, financial commitments, cash flows, HR arrangements and other information needed to handle any such transition effectively and to maintain the momentum of any ongoing and / or transferred work.
- 13.4 This agreement will be reviewed every three years, or sooner upon request of either party.

14. References

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