Department
of Health

NICE National Institute for Health and Care Excellence

Framework Agreement between the Department of Health and the National Institute for Health and Care Excellence

2014

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Signed.....
Date.....5 February 2014.....

Richard Douglas, Director General,
Finance & NHS, Department of Health

Signed.....
Date.....5 February 2014.....

Sir Andrew Dillon, Chief Executive,
National Institute for Health and Care
Excellence

1. Purpose of this document

1.1. The purpose of this document is to define the critical elements of the relationship between the Department and the National Institute for Health and Care Excellence (NICE). The document is focused on:

- How the Department and NICE work in **partnership** to serve patients, the public and the taxpayer; and

- How both NICE and the Department discharge their **accountability** responsibilities effectively.

2. NICE's purpose

2.1. NICE is a national advisory body established by the Health and Social Care Act 2012 as an executive non-departmental body. NICE's role is to provide guidance and support to providers and commissioners to help them improve outcomes for people using the NHS, public health and social care services. NICE supports the health and care system by defining quality in the NHS, public health and social care sectors and helps promote the integration of health and social care.

2.2. NICE does this by producing robust evidence-based guidance and advice for health, public health and social care practitioners; developing quality standards for those providing and commissioning health, public health and social care services; and providing information services for commissioners, practitioners and managers across the spectrum of health and social care.

2.3. NICE operates a range of programmes generating guidance and advice for the NHS, the public health and social care communities. The programmes include:

- evaluation of health technologies;
- guidance covering clinical care, public health and social care;
- quality standards[1];
- interventional procedures guidance;
- safe staffing guidance;
- indicators for GP Quality and Outcomes Framework and the Clinical Commissioning Group Outcomes Indicator Set;
- advice on the value-for-money evidence for high cost, low volume drugs and treatments; and
- in addition, from 2014, NICE will play a central role in the assessment of the value of new medicines under value based pricing.

These programmes are supported by implementation support materials and activities, and are complemented by NICE Evidence Services, a suite of on-line evidence resources for all health and social care professionals.

NICE also provides a national formulary and a range of advice and support on the effective use of medicines.

2.4. NICE discharges its functions by working closely with other organisations in the health and care system. This includes the Department of Health (including Public Health England and the Medicines and Healthcare products Regulatory Agency), NHS England, Monitor, the Health and Social Care Information Centre, the Care Quality

[1] Quality standards are a concise set of statements designed to improve quality in a particular area of health and care.

Commission, local NHS bodies and local authorities. In addition, it maintains strong links with the life sciences industry, academia and the third sector.

3. Governance

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

- a non-executive chair appointed by the Secretary of State for Health;
- a minimum of five other non-executive members, including a deputy chair, also appointed by the Secretary of State;
- a chief executive appointed by the non-executive members with the approval of the Secretary of State; and
- other executive board members appointed by the non-executive members: the total number of executive members must be at least three but no more than five.

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

Process for setting objectives

3.3. NICE's legislative framework describes its general functions and provides that its work is commissioned by Ministers or by NHS England. NICE's work programmes are normally set by Ministers and NHS England several years in advance and the development of individual pieces of guidance can take between 6 months to 2 years. Decisions on which topics to refer to NICE's work programmes, and their relative priority, are taken following a consultation with stakeholders and are based on NICE's capacity, the quality of evidence that is already available and the urgency of the topic.

3.4. NICE produces a three year strategy which is updated annually. This allows NICE to manage its work programme to meet the objectives and desired outcomes of the Department of Health and NICE's other partners, including NHS England.

3.5. From its three year strategy, NICE produces 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. NICE reaches agreement with the

Department on its business plan. To facilitate comment from the Department, including relevant Ministers, the business plan is shared and discussed in advance of clearance with NICE's board. NICE is made aware of any concerns the Department may have.

Discharge of statutory functions

3.6. NICE ensures that it has appropriate arrangements in place for the discharge of each of the statutory functions for which it is responsible and is clear about the legislative requirements associated with each of them, specifically any restrictions on the delegation of those functions. It 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. NICE also ensures that there is regular[2] audit of the discharge of its statutory functions so that the delivery of them remains effective, efficient and legally compliant.

Cross-government clearance

3.7. In addition to internal governance, cross-government clearance is required for major new policy decisions of the type set out in Cabinet Office guidance.[3] Although such cases are likely to be small in number, the Secretary of State will be responsible for obtaining clearance and NICE 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, NICE will supply the Secretary of State with any information he or she needs in a timely fashion.

[2] Similar to other ALBs, NICE 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.

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

4. Accountability

Secretary of State

4.1. The Secretary of State is accountable to Parliament for the health system (its "steward"), including NICE. The Department of Health supports him or her in this role. This involves:

- setting national priorities and monitoring the whole system's performance to ensure it delivers what patients, people who use services and the wider public need and value most;
- setting budgets across the health system, including for NICE;
- setting objectives for NICE;
- 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 NICE's performance and the effectiveness of the health and care system overall.

4.2. To support this accountability, the Secretary of State or nominated lead Minister holds an Annual Accountability review with the Chair and Chief Executive of NICE to formally review NICE's performance for the preceding financial year and to discuss current and future plans, pressures and strategic issues.

The Principal Accounting Officer and NICE's Accounting Officer

4.3. The Department of Health's Permanent Secretary is the Principal Accounting Officer (PAO) and so is accountable in Parliament for the general performance of the health and care system in England, including NICE. This requires him or her to gain assurance that NICE is discharging its statutory duties and meeting its objectives. In this way the PAO is able to report to Parliament on the Department's stewardship of the public funds it distributes and for which it holds overall accountability.

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

4.5. The PAO's oversight of NICE's performance relies upon the provision of information, and processes to enable both parties to review performance.

4.5.1. The information provided to the Department by NICE on a quarterly basis includes:

- activity against plan;
- finance position covering revenue, capital and income;
- balanced scorecard covering progress against business plan deliverables along with indicators of organisational health; and
- risk register covering high level strategic risks and business risks.

4.5.2. The processes in place to enable the Department and NICE to review performance include:

- **Annual Business Planning meetings** with NICE's Chief Executive and the SDS. The purpose of the meeting is to review NICE's activity over the preceding year, to agree an outline 3 year proposed direction of travel, and to formally agree NICE's business plan for the forthcoming financial year. The business plan sets out NICE's objectives for the year and brings together and reconciles the different bilateral agreements (e.g. the Partnership Agreement with NHS England) reached between NICE and the organisations which commission work from it. It also includes information on funding which is informed by agreement at the finance bi-laterals. The annual business plan is signed off by the NICE Board and the DH SDS.

- **Finance bi-laterals** with NICE's Finance Director, DH Finance and the NICE sponsor team. Decisions made following the finance bi-laterals inform the content of the annual business plan.

- **Quarterly accountability meetings** with the senior management team at NICE and the DH NICE sponsor team. The meetings cover NICE's balanced scorecard, finance position and activity against plan, risk register and completion of formal "pulse" survey. The DH sponsor team seeks input from the relevant DH function and policy leads prior to the meetings. The sponsor team also seeks the views of NHS England. The meetings are formally minuted.

- **Regular informal communication** between NICE's chair, chief executive or directors and the NICE sponsor team to manage day to day operational matters. These take place as and when necessary. They are key to delivering a mutual "no surprises" approach.

4.6. NICE must prepare and lay before Parliament an annual report on how it has exercised its functions during the year, and send a copy to the Secretary of State. NICE must also prepare annual accounts and send copies to the Secretary of State and the Comptroller and Auditor General (C&AG).

4.7. NICE 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:

4.7.1. All funds allocated to NICE must be spent on the statutory functions of NICE. If any funds are spent outside the statutory functions of NICE, the Department could seek adjustments to the grant in aid for running costs (administration) to compensate.

4.7.2. The Secretary of State may remove any non-executive member from the Board on the grounds of incapacity, misbehaviour or failure to carry out his or her duties as a non-executive member.

4.7.3. The Secretary of State may intervene if NICE fails to discharge its functions, (section 245 of the Health and Social Care Act 2012, refers). The Secretary of State must publish his or her reasons for any intervention.

5. NICE's board

5.1. NICE is governed by its board. The role of the board is as described in the corporate governance code for central government departments[4] 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. The board establishes and takes forward the strategic aims and objectives of NICE, consistent with its overall strategic direction and within the policy and resources framework determined by the Secretary of State.

5.2. The board is led by a non-executive chair, who is responsible to the Secretary of State for ensuring that NICE's affairs are conducted with probity, and that NICE's policies and actions support it in the discharge of its functions and duties efficiently and effectively and meet NICE's objectives, including those set out in its business plan. The chair is supported by a deputy chair. 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 are responsible for appointing the executive directors.

5.3. NICE's chair and non-executive directors are appointed by the Secretary of State. Appointments are transparent, made on merit, and are regulated by the Commissioner for Public Appointments.

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 NICE;
- ensuring that NICE 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 NICE's financial performance and the delivery of its objectives;
- accounting to the Department's Permanent Secretary, who is Principal Accounting Officer for the whole of the Department of Health's budget, providing a line of sight from the Department to NICE; and

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

- reporting quarterly to the PAO on performance against NICE's objectives, via the quarterly accountability meetings (see above).

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

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

6. Partnership working

6.1. To support the development of this relationship, the Department of Health and NICE have agreed to a set of shared principles:

- Working together for patients, people who use services and the public, demonstrating our commitment to the values of the NHS set out in its Constitution.
- Respect for the importance of autonomy throughout the system, and the freedom of individual organisations to exercise their functions in the way they consider most appropriate.
- Recognition that the Secretary of State is ultimately accountable to Parliament and the public for the system overall. NICE will support the Department in the discharge of its accountability duties, and the Department will support NICE in the same way.
- Working together openly and positively. This includes working constructively and collaboratively with other organisations within and beyond the health and social care system.

6.2. To support the Secretary of State and the Principal Accounting Officer in their accountability functions, NICE must lay an annual report before Parliament and provide the Secretary of State with any information which he or she feels necessary to fulfil their duties that relate to NICE's functions. It is therefore expected that the Department will, when required, have full access to NICE's files and information. If necessary, the Senior Departmental Sponsor's team will be responsible for prioritising these requests for information.

6.3. The Department and NICE 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, NICE 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 NICE. In the same way, the Department will seek to keep NICE apprised of developments in policy and Government. There are likely to be some issues where the Department or NICE will expect to be consulted by the other before the Department or NICE makes either a decision or a public statement on a matter. The Department and NICE will make clear which issues fall into this category in good time. The sponsor team will be responsible for ensuring that this works effectively.

Public and Parliamentary Accountability

6.4. The Department and its ALBs share responsibility for accounting to the public and to Parliament for policies, decisions and activities across the health and care sector. Accountability to Parliament will often be demonstrated through parliamentary questions, MPs' letters and appearances before parliamentary committees. Accountability to the public may be through the publication of information on NICE'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, NICE will support the Department by, amongst other things, providing information for ministers to enable them to account to Parliament. In its turn, the Department will provide leadership to the system for corporate governance, including setting standards for performance in accountability.

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

7. Transparency

7.1. NICE is an open organisation that carries out its activities transparently. It demonstrates this by proactively publishing on its website key information on areas including pay, diversity of the workforce, performance, the way it manages public money and the public benefits achieved through its activities, and by supporting those who wish to use the data by publishing the information within guidelines set by the Cabinet Office[5]. NICE must lay before Parliament a copy of its annual report on how it has exercised its functions during the year. The annual report includes a governance statement, which is reviewed by the SDS. NICE 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, NICE and the Department have put in place arrangements for managing communications. Further details are provided in Annex C.

7.3. NICE's executive and non-executive board members operate within the general principles of the corporate governance guidelines set out by HM Treasury[6]. They also comply with the Cabinet Office's Code of Conduct for Board Members of Public Bodies[7] and with NICE's rules on disclosure of financial interests. NICE has developed a code of conduct for all staff which complies with the principles in the Cabinet Office's model code for staff of executive non-departmental public bodies[8]. This includes rules on conflicts of interest, political activity and restrictions on lobbying.

7.4. NICE 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

[5] The guidance is available on the HM Treasury website: https://www.gov.uk/government/topics/government-efficiency-transparency-and-accountability

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

[7] http://www.bl.uk/aboutus/governance/blboard/Board%20Code%20of%20Practice%202011.pdf

[8] http://www.civilservice.gov.uk/wp-content/uploads/2011/09/5_public_body_staffv2_tcm6-2484.pdf

assessment mechanism; and

- it meets its 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.

7.5. NICE's Senior Information Risk Owner and Caldicott Guardian will work together to ensure that both patient and other personal information are handled in line with best practice in government and the wider public sector.

Whistleblowing

7.6. NICE, similarly to 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[9]. It should prohibit the use of confidentiality clauses that seek to prevent staff from speaking out on issues of public interest.

Sustainability

7.7. As a major public sector body, NICE 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, NICE should comply with the Greening Government Commitments[10] 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 NICE is aware of the process for this.

9 http://www.nhsemployers.org/EmploymentPolicyAndPractice/UKEmploymentPractice/RaisingConcerns/Pages/Whistleblowing.aspx

10 http://sd.defra.gov.uk/documents/Greening-Government-commitments.pdf

8. Audit

8.1 The C&AG audits NICE's annual report and accounts. Assuming a satisfactory audit, the C&AG provides an audit certificate and audit report in time for NICE to lay its combined annual report and accounts before Parliament in accord with published timetables.

8.2. The C&AG may also choose to conduct a value-for-money audit of any aspect of NICE's work: NICE will cooperate fully with the National Audit Office (NAO) in pursuing such audits, and give them full access to all relevant files and information.

8.3. NICE is responsible for establishing and maintaining internal audit arrangements in accordance with the Public Sector Internal Audit Standards. NICE's internal audit function should report to its Audit and Risk sub-committee, and should consider issues relating to NICE'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 NICE's Audit and Risk Committee should work closely with the Departmental committee.

9. Delegations and financial management

9.1. Details of NICE's financial arrangements, including funding allocation, in-year reporting, preparation of accounts, and the Accounting Officer's responsibilities in relation to financial management and NICE's accounts, are provided in Annex B.

9.2. NICE's overall revenue and capital resources are set out in an annual allocation letter issued from the Department on behalf of the Secretary of State. NICE's delegated authorities are issued to it by the Department, including those areas where NICE must obtain the Department's written approval before proceeding. NICE will adhere to these delegated authorities. More details are provided in Annex B.

9.3. NICE must demonstrate that it is delivering its functions in the most efficient manner, and must provide timely returns to the Department where these are required either by it or by other departments within central government.

9.4. NICE, 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 NICE is kept informed of any efficiency controls in operation.

9.5. As part of the government's approach to managing and delivering public service at a reduced cost base, NICE, as with all other arm's length bodies and the Department, will in future and in accordance with the recommendations of the shared services programme 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 NICE and the service provider will be set out in a contract or where appropriate a service level agreement (SLA).

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

9.7. NICE has the power to charge for certain of its products. It may do so, subject to compliance with annex 6.3 of *Managing Public Money*, at an appropriate commercial rate except for charges to the Devolved Administrations whereby it may only charge on a cost recovery basis.

10. Risk management

10.1. NICE ensures that it deals with the risks that it faces in an appropriate manner, according to best practice in corporate governance, and develops a risk management strategy in accordance with the Treasury guidance *Management of Risk: Principles and Concepts*[11]. It adopts and implements policies and practices to safeguard itself against fraud and theft, in line with HM Treasury guidance[12]. It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant or grant-in-aid.

10.2. NICE's Audit and Risk Committee challenges and scrutinises the operation of NICE's risk management processes and reports to the Board on the effectiveness of its processes. NICE reports to its board its financial and operational performance against the business plan at its monthly meetings. This assurance report includes information on risks and how they are being managed in accordance with the Treasury guidance mentioned above. The information prepared is shared with the Department to enable the Department to assure itself on risk management. NICE and the Department will agree a process and trigger points for the escalation of risks to the Department's Audit and Risk Committee (ARC) where those risks will have a potentially significant impact on NICE, the Department or the wider system that requires a co-ordinated response.

10.3. Risks to the wider system that arise from NICE's operations, identified by NICE, DH or another body, are flagged in the formal quarterly accountability meetings chaired by the SDS. Such risks may also be flagged by NICE's board and escalated to the Department's ARC for consideration. It is the responsibility of NICE and its sponsor to keep each other informed of significant risks to, or arising from, the operations of NICE within the wider system.

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

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

[12] http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf.pdf

11. Human resources

11.1. NICE is responsible for recruiting staff, but will comply with any departmental or government-wide recruitment controls. The Department will ensure that NICE is made aware of any such controls. Very senior managers in NICE are subject to the Department of Health pay framework for very senior managers in arm's length bodies, and may be subject to additional governance as specified by the Department. The Department will ensure that NICE is aware of any such requirements or restrictions.

11.2. NICE must obtain the approval of the Secretary of State in respect of policies relating to remuneration, pensions, allowances or gratuities.

11.2.1. In relation to remuneration, NICE, as with all executive non-departmental public bodies, is subject to the pay remit process, which regulates the pay setting arrangements for its staff (those who are not very senior managers). The pay remit provides a framework within which NICE sets:

- the pay envelope for the year;
- pay strategies; and
- pay reporting.

11.2.2. HM Treasury has delegated the approval of executive non-departmental public bodies' pay remits to parent departments. NICE is therefore required to submit its pay remit proposals to the Department for approval.

11.2.3. Very senior manager remuneration is subject to the recommendations of the Senior Salaries Review Body.

11.2.4. In relation to pensions, the organisational pension scheme is the NHS Pensions scheme, which is administered by the NHS Business Services Authority and has rules set down in legislation.

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

11.4. Subject to its financial delegations, NICE is required to comply with the Department's and HM Treasury's approval processes in relation to contractual redundancy payments. All novel or contentious payments require the Department's and HM Treasury's approval. Special severance payments are always considered novel or contentious (this includes any proposal to make a payment as a result of judicial mediation).

Equalities

11.5. The public sector equality duty requires NICE (as a public body) to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

11.6. The specific duties require NICE, 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.

- Prepare and publish one or more objectives it thinks it should achieve to meet the Public Sector Equality Duty.[13]

[13] 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. NICE 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. NICE has important working relationships with the bodies set out in Annex D. NICE also has a duty to co-operate with other NHS bodies in exercising its functions.

13. Review

13.1. NICE's objectives and business plan will continue to be reviewed formally on an annual basis. There is flexibility to review objectives within the year in order to respond to emerging priorities.

13.2. The Department will regularly review NICE's performance at formal accountability meetings. In addition, the Department will undertake an in-depth review of NICE as well as its other arm's length bodies on at least a triennial basis.

13.3. NICE is established by the Health and Social Care Act 2012. Any change to its general duties, or mergers, significant restructuring or abolition would therefore require further primary legislation. If this were to happen, the Department would then be responsible for putting in place arrangements to ensure a smooth and orderly transition. In particular, the Department is to ensure that, where necessary, procedures are in place in the ALB so the Department can obtain independent assurance on key transactions, financial commitments, cash flows, HR arrangements and other information needed to handle the transition effectively and to maintain the momentum of any ongoing and / or transferred work.

13.4. This agreement will be reviewed every three years, or sooner upon request of either party.