



Meeting name:	WY ICB Board
Agenda item no.	22
Meeting date:	19 March 2024
Report title:	ICB Constitution / Standing Financial Instructions / Financial Scheme of Delegation / Terms of Reference
Report presented by:	Laura Ellis, Director of Corporate Affairs
Report approved by:	Laura Ellis, Director of Corporate Affairs
Report prepared by:	Laura Ellis, Director of Corporate Affairs

Purpose and Action

Assurance <input type="checkbox"/>	Decision <input checked="" type="checkbox"/> (approve/recommend/ support/ratify)	Action <input type="checkbox"/> (review/consider/comment/ discuss/escalate)	Information <input type="checkbox"/>
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Previous considerations:

West Yorkshire Finance Investment and Performance Committee – 27 February 2024

Executive summary and points for discussion:

The ICB constitution sets out clear principles, values, processes and standards which govern how the ICB operates. It establishes a framework which allows us to develop and adapt our detailed arrangements over time to deliver our mission and meet the needs of our communities.

On 1 July 2022, the Board noted the ICB’s Constitution and Standing Orders (which had been approved by NHS England and Improvement on 1 June 2022), and a number of minor changes were agreed in November 2022 and May 2023.

The Constitution and supporting documentation such as the schemes of delegation and the Standing Financial Instructions are kept under ongoing review. A small number of changes have been identified as a result of:

- The requirements of the new Provider Selection Regime Regulations – changes required to the Financial Scheme of Delegation (FSoD) and the Standing Financial Instructions (SFIs).
- Introduction of Deputy Chief Executive roles – changes required to the Financial Scheme of Delegation and the Constitution.

The Board are asked to approve the changes and support an application to NHS England for variation of the Constitution.

Additionally, the Board is asked to approve revised terms of reference of the Pharmaceutical Services Regulations Committee.

Which purpose(s) of an Integrated Care System does this report align with?

- Improve healthcare outcomes for residents in their system
- Tackle inequalities in access, experience and outcomes

<input checked="" type="checkbox"/> Enhance productivity and value for money <input checked="" type="checkbox"/> Support broader social and economic development
Recommendation(s)
<p>The Board is asked to:</p> <p>(a) APPROVE the changes to the ICB Constitution and SUPPORT an application to NHS England for variation of the Constitution.</p> <p>(b) APPROVE the changes to the Financial Scheme of Delegation and Standing Financial Instructions.</p> <p>(c) APPROVE the revised terms of reference of the Pharmaceutical Services Regulations Committee.</p>
Does the report provide assurance or mitigate any of the strategic threats or significant risks on the Corporate Risk Register or Board Assurance Framework? If yes, please detail which:
There are no risks associated with this report.
Appendices
<ol style="list-style-type: none"> 1. Standing Financial Instructions 2. Financial Scheme of Delegation 3. Pharmaceutical Services Regulations Committee Terms of Reference
Acronyms and Abbreviations explained
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What are the implications for?

Residents and Communities	The constitution sets out our commitment to meet the health needs of our residents and communities.
Quality and Safety	The constitution is designed to ensure that people have access to high quality, safe services.
Equality, Diversity and Inclusion	Section 4.6.4 i – the Board and committees must consider the equality and diversity implications of all decisions.
Finances and Use of Resources	Section 5.2 - Standing Financial Instructions.
Regulation and Legal Requirements	The constitution complies with legal requirements.
Conflicts of Interest	Section 6 – Conflicts of interest.
Data Protection	Section 1.4.5 f – Information law
Transformation and Innovation	The constitution is designed to support our ambitions for transformation and innovation.
Environmental and Climate Change	The constitution is designed to support our sustainability ambitions.
Future Decisions and Policy Making	None identified.

Citizen and Stakeholder Engagement

Section 9 sets out our approach.

There was extensive engagement on the constitution prior to original approval. The proposed changes follow internal governance review and do not require further engagement.

1. Introduction

- 1.1 The ICB constitution sets out clear principles, values, processes and standards which govern how the ICB operates. It establishes a framework which allows us to develop and adapt our detailed arrangements over time to deliver our mission and meet the needs of our communities.
- 1.2 On 1 July 2022, the Board noted the ICB's Constitution (which had been approved by NHS England and Improvement on 1 June 2022) and made a number of minor changes in November 2022 and May 2023.
- 1.3 The Constitution and supporting documentation are kept under ongoing review and a small number of changes have been identified as a result of:
 - The requirements of the new Provider Selection Regime Regulations.
 - Introduction of Deputy Chief Executive roles.
- 1.4 The Board is also being asked to approve an updated version of the terms of reference for the Pharmaceutical Services Regulations Committee.

2. Proposed changes - Constitution

- 2.1 The full Constitution can be viewed at [NHS West Yorkshire ICB Constitution 010722 FINAL.pdf \(wypartnership.co.uk\)](https://www.wypartnership.co.uk/~/media/010722_FINAL.pdf) – It is not appended in full to the report, in order to minimise the volume of papers; references to the appropriate sections are set out below for ease of reference.
- 2.2 There are three sections being proposed for amendment:

2.2.1 Section 2.2 – Board Membership

The Board is asked to approve the insertion of an additional paragraph 2.2.6:

The Chief Executive will appoint one or more of the executive members to act as Deputy Chief Executive.

2.2.2 Section 4.7 Quorum

The Board is asked to approve the amendment of 4.7.1(b) to read:

The Chief Executive or Deputy Chief Executive

2.2.3 Section 4.9 – Decision-Making

The Board is asked to approve the amendment of 4.9.5 to read:

The powers which are reserved or delegated to the board, may for an urgent decision be exercised by the Chair (or Deputy Chair if necessary) and Chief Executive (or Deputy Chief Executive). This is subject to every effort having

made to consult with as many board members as possible in the given circumstances. This will include the relevant Executive Director and at least one non-executive member.

3. Proposed changes - Financial Scheme of Delegation and Standing Financial Instructions

- 3.1 The Finance Investment and Performance Committee was briefed at its February meeting about the requirements of the new Provider Selection Regime Regulations. The Committee approved a revised Procurement Policy and also recommended to the Board a number of changes to the Financial Scheme of Delegation (FSoD) and Standing Financial Instructions.
- 3.2 To implement these required changes in a proportionate way to balance the requirements for transparency and the management of risk with the capacity of the new operating model; minor changes are required to the FSoD and the Standing Financial Instructions, which are appended to this report. It should be noted that the PSR applies to the award of all healthcare service contracts, whatever their value, and cannot be waived. Therefore, as well as revising some of the values and job titles in the FSoD, the process for approving tender waivers for healthcare services has been removed as it is now obsolete.
- 3.3 A further change is also being proposed to the FSoD to build in resilience to reflect the changes to the ICB Chief Executive's working arrangements and so a reference has been added to include cover from the Deputy Chief Executive in the delegated limits.

4. Pharmaceutical Services Regulations Committee – Updated Terms of Reference

- 4.1 In March 2023, the Board approved the establishment of a Pharmaceutical Services Regulations Committee to meet as a Committee in Common with Humber and North Yorkshire ICB and South Yorkshire ICB. This came into effect on 1 April 2023. An updated terms of reference is now being provided for approval by the Board.

5. Process for amending the Constitution

- 5.1 The procedure for proposal and agreement of variations to the Constitution is that the Chair and/or Chief Executive may periodically propose amendments to the Constitution, which are submitted to the Board for approval.
- 5.2 If the changes are deemed material, there would be an engagement process with partners in the ICB. In this instance, the changes are not deemed material and this has not been necessary. Examples of material changes would be changes to the membership of the Board or to decision-making procedures.

5.3 Proposed changes are then submitted to NHS England for approval – the amendments cannot be implemented until an application to NHS England for variation has been approved.

6. Next Steps

Following approval by the Board, an application for variation will be submitted to NHS England. Once approved by NHS England, the constitution will be updated and published on the ICB's website.

The changes to the Financial Scheme of Delegation, Standing Financial Instructions and the Pharmaceutical Services Regulations Committee Terms of Reference will be enacted following the Board's approval and updated on the ICB website.

7. Recommendations

The Board is asked to:

- (a) **APPROVE** the changes to the ICB Constitution and **SUPPORT** an application to NHS England for variation of the Constitution.
- (b) **APPROVE** the changes to the Financial Scheme of Delegation and Standing Financial Instructions.
- (c) **APPROVE** the revised terms of reference of the Pharmaceutical Services Regulations Committee.

West Yorkshire Integrated Care Board

Standing Financial Instructions

Approved by the West Yorkshire ICB Board 18 July 2023 (v2.0)

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1. Purpose and statutory framework

1.1 These Standing Financial Instructions (SFIs) shall have effect as if incorporated into the integrated Care Board's (ICB) constitution. In accordance with the National Health Service Act 2006, as amended by the Health and Care Act 2022, the ICB must publish its constitution.

1.2 This document should be read in conjunction with the following ICB key documents

- Standing Orders
- Scheme of Reservation and Delegation (SoRD)
- Operational Scheme of Delegation
- Procurement Policy
- Financial Scheme of Delegation

1.3 In accordance with the Act as amended, NHS England is mandated to publish guidance for ICBs, to which each ICB must have regard, to discharge their duties.

1.4 The purpose of this governance document is to ensure that the ICB fulfils its statutory duty to carry out its functions effectively, efficiently, and economically. The SFIs are part of the ICB's control environment for managing the organisation's financial affairs as they are designed to ensure regularity and propriety of financial transactions.

1.5 SFIs define the purpose, responsibilities, legal framework, and operating environment of the ICB. They enable sound administration, lessen the risk of irregularities and support commissioning and delivery of effective, efficient, and economical services.

1.6 The ICB is established under Chapter A3 of Part 2 of the National Health Service Act 2006, as inserted by the Health and Care Act 2022, and has the general function of arranging for the provision of services for the purposes of the health services in England in accordance with the Act.

1.7 Each ICB is to be established by order made by NHS England for an area within England, the order establishing an ICB makes provision for the constitution of the ICB.

1.8 All members of the ICB (its board) and all other Officers should be aware of the existence of these documents and be familiar with their detailed provisions. The ICB SFIs will be made available to all Officers on the intranet and/or internet website for each statutory body.

1.9 Should any difficulties arise regarding the interpretation or application of any of these SFIs, the advice of the Chief Executive or the ICB Director of Finance must be sought before acting.

1.10 Failure to comply with the SFIs may result in disciplinary action in accordance with the ICBs applicable disciplinary policy and procedure in operation at that time or steps taken against third parties in line with contractual terms.

1.11 In support of these SFI's, the ICB has more detailed policies, prepared by the ICB Director of Finance /Deputy known as *detailed financial policies*. The ICB refers to these SFI's and detailed financial policies together as the ICB financial policies.

1.12 All amounts quoted in these SFI's refer to values inclusive of Value Added Tax

2. Scope

2.1 All officers of the ICB, without exception, are within the scope of the SFIs without limitation. The term officer includes, permanent employees, secondees and contract workers/temporary staff.

2.2 Within this document, words imparting any gender include any other gender. Words in the singular include the plural and words in the plural include the singular.

2.3 Any reference to an enactment is a reference to that enactment as amended.

2.4 Unless a contrary intention is evident, or the context requires otherwise, words or expressions contained in this document, will have the same meaning as set out in the applicable Act.

3. Roles and Responsibilities

3.1 Staff

3.1.1 All ICB Officers are severally and collectively, responsible to their respective employer(s) for:

- abiding by all conditions of any delegated authority.
- the security of the statutory organisations property and avoiding all forms of loss.
- ensuring integrity, accuracy, probity, and value for money in the use of resources; and
- conforming to the requirements of these SFIs

3.2 Accountable Officer

3.2.1 The ICB constitution provides for the appointment of the Chief Executive by the ICB chair. The Chief Executive is the accountable officer for the ICB and is personally accountable to NHS England for the stewardship of ICBs allocated resources.

3.2.2 The ICB Director of Finance reports directly to the ICB Chief Executive officer and is professionally accountable to the NHS England regional Finance Director

3.2.3 The Chief Executive will delegate to the ICB Director of Finance the following responsibilities in relation to the ICB:

- preparation and audit of annual accounts.
- adherence to the directions from NHS England in relation to accounts preparation.
- ensuring that the allocated annual revenue and capital resource limits are not exceeded, jointly, with system partners.
- ensuring that there is an effective financial control framework in place to support accurate financial reporting, safeguard assets and minimise risk of financial loss.

- meeting statutory requirements relating to taxation.
- ensuring that there are suitable financial systems in place (see Section 6)
- meets the financial targets set for it by NHS England.
- use of incidental powers such as management of ICB assets, entering commercial agreements.
- ensuring the Governance statement and annual accounts & reports are signed.
- ensuring planned budgets are approved by the relevant Board / Committee; developing the funding strategy for the ICB to support the board in achieving ICB objectives, including consideration of place-based budgets.
- making use of benchmarking to make sure that funds are deployed as effectively as possible.
- executive members, partner members, non-executive members and other officers are notified of and understand their responsibilities within the SFIs;
- specific responsibilities and delegation of authority to specific job titles are confirmed;
- financial leadership and financial performance of the ICB;
- identification of key financial risks and issues relating to robust financial performance and leadership and working with relevant providers and partners to enable solutions; and
- the ICB Director of Finance will support a strong culture of public accountability, probity, and governance, ensuring that appropriate and compliant structures, systems, and process are in place to minimise risk.

3.3 Audit committee

3.3.1 The board and accountable officer should be supported by an audit committee, which should provide proactive support to the board in advising on: -

- the management of key risks

- the strategic processes for risk;
- the operation of internal controls;
- control and governance and the governance statement;
- the accounting policies, the accounts, and the annual report of the ICB;
- the process for reviewing of the accounts prior to submission for audit, management's letter of representation to the external auditors; and the planned activity and results of both internal and external audit.

4. Management accounting and business management

4.1 The ICB Director of Finance is responsible for maintaining policies and processes relating to the control, management and use of resources across the ICB.

4.2 The ICB Director of Finance will delegate the budgetary control responsibilities to ICB or place based budget holders through a formal documented process.

4.3 The ICB Director of Finance will ensure:

- the promotion of compliance to the SFIs through an appropriate assurance process;
- the promotion of long-term financial health for the NHS system (including ICS);
- budget holders are accountable for obtaining the necessary approvals and oversight of all expenditure incurred on the cost centres they are responsible for;
- the improvement of financial literacy of budget holders with the appropriate level of expertise and systems training.
- that the budget holders are supported in proportion to the operational risk; and
- the implementation of financial and resources plans that support the NHS Long term plan objectives:
 - the duty of the ICB to perform its functions as to ensure that its expenditure does not exceed the aggregate of its allocation from NHS England and other income; and
 - the duty of the ICB, in conjunction with its partner trusts, to seek to achieve any joint finance objectives set by NHS England for the ICB and its partner trusts.

5. Income, banking arrangements and debt recovery

5.1 Income

5.1.1 An ICB has power to do anything specified in section 7(2) of the Health and Medicines Act 1988 for the purpose of making additional income available for improving the health service.

5.1.2 The ICB Director of Finance is responsible for:

- ensuring order to cash practices are designed and operated to support, efficient, accurate and timely invoicing and receipting of cash. The processes and procedures should be standardised and harmonised across the NHS System by working cooperatively with the Shared Services provider; and
- ensuring the debt management strategy reflects the debt management objectives of the ICB and the prevailing risks.

5.2 Banking

5.2.1 The ICB Director of Finance is responsible for ensuring the ICB complies with any directions issued by the Secretary of State with regards to the use of specified banking facilities for any specified purposes.

5.2.2 The ICB Director of Finance will ensure that:

- the ICB holds the minimum number of bank accounts required to run the organisation effectively. These should be raised through the government banking services contract; and
- the ICB has effective cash management policies and procedures in place.

5.3 Debt management

5.3.1 The ICB Director of Finance is responsible for the ICB debt management strategy.

5.3.2 This includes:

- a debt management strategy that covers end-to-end debt management from debt creation to collection or write-off in accordance with the losses and special payment procedures.
- ensuring the debt management strategy covers a minimum period of 3 years and must be reviewed and endorsed by the ICB board every 12 months to ensure relevance and provide assurance;
- accountability to the ICB board that debt is being managed effectively.
- accountabilities and responsibilities are defined with regards to debt management to budget holders; and
- responsibility to appoint a senior officer responsible for day-to-day management of debt.

6. Financial systems and processes

6.1 Provision of finance systems

6.1.1 The ICB Director of Finance is responsible for ensuring systems and processes are designed and maintained for the recording and verification of finance transactions such as payments and receivables for the ICB.

6.1.2 The systems and processes will ensure, inter alia, that payment for goods and services is made in accordance with the provisions of these SFIs, related procurement guidance and prompt payment practice.

6.1.3 As part of the contractual arrangements for ICBs officers will be granted access where appropriate to the Integrated Single Financial Environment (“ISFE”). This is the required accounting system for use by ICBs. Access is based on single access log on to enable users to perform core accounting functions such as to transacting and coding of expenditure/income in fulfilment of their roles.

6.1.4 The ICB Director of Finance will, in relation to financial systems:

- promote awareness and understanding of financial systems, value for money and commercial issues.
- ensure that transacting is carried out efficiently in line with current best practice – e.g., e-invoicing
- ensure that the ICB meets the required financial and governance reporting requirements as a statutory body by the effective use of finance systems.
- enable the prevention and the detection of inaccuracies and fraud, and the reconstitution of any lost records.
- ensure that the financial transactions of the authority are recorded as soon as, and as accurately as, reasonably practicable.
- ensure publication and implementation of all ICB business rules and ensure that the internal finance team is appropriately resourced to deliver all statutory functions of the ICB.
- ensure that risk is appropriately managed.

- ensure identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers.
- ensure the ICB has suitable financial and other software to enable it to comply with these policies and any consolidation requirements of the ICB.
- ensure that contracts for computer services for financial applications with another health organisation or any other agency shall clearly define the responsibility of all parties for the security, privacy, accuracy, completeness, and timeliness of data during processing, transmission, and storage. The contract should also ensure rights of access for audit purposes; and
- where another health organisation or any other agency provides a computer service for financial applications, the ICB Director of Finance shall periodically seek assurances that adequate controls are in operation.

7. Procurement and purchasing

7.1 Principles

7.1.1 The ICB Director of Finance will take a lead role on behalf of the ICB to ensure that there are appropriate and effective financial, contracting, monitoring and performance arrangements in place to ensure the delivery of effective health services.

7.1.2 The ICB must ensure that procurement activity is in accordance with the Public Contracts Regulations 2015 (PCR) [or The Healthcare Services \(Provider Selection Regime\) Regulations 2023 \(PSR\), whichever is applicable](#) and associated statutory requirements whilst securing value for money and sustainability.

7.1.3 The ICB must consider, as appropriate, any applicable NHS England guidance that does not conflict with the above.

7.1.4 The ICB must have a Procurement Policy which sets out all the legislative requirements.

7.1.5 All revenue and non-pay expenditure must be approved, in accordance with the ICB business case policy, prior to an agreement being made with a third party that enters a commitment to future expenditure.

7.1.6 All officers must ensure that any conflicts of interest are identified, declared, and appropriately mitigated or resolved in accordance with the ICB standards of business conduct policy.

7.1.7 Budget holders are accountable for obtaining the necessary approvals and oversight of all expenditure incurred on the cost centres they are responsible for. This includes obtaining the necessary internal and external approvals which vary based on the type of spend, prior to procuring the goods, services or works.

7.1.8 Undertake any contract variations or extensions in accordance with [PSR 2023 or PCR 2015, whichever is applicable](#), and the ICB procurement policy.

7.1.9 Retrospective expenditure approval should not be permitted. Any such retrospective breaches require approval from any committee responsible for approvals before the liability is settled. Such breaches must be reported to the audit committee.

8. Staff costs and staff related non pay expenditure

8.1 ICB Director of People

8.1.1 The ICB Director of People will lead the development and delivery of the long-term people strategy of the ICB ensuring this reflects and integrates the strategies of all relevant partner organisations within the ICS.

8.1.2 Operationally the ICB Director of People will be responsible for;

- defining and delivering the organisation's overall human resources strategy and objectives; and
- overseeing delivery of human resource services to ICB employees.

8.1.3 The ICB Director of People, in conjunction with the ICB Director of Finance, will ensure that the payroll system has adequate internal controls and suitable arrangements for processing deductions and exceptional payments.

8.1.4 Where a third-party payroll provider is engaged, the ICB Director of People, in conjunction with the ICB Director of Finance, shall closely manage this supplier through effective contract management.

8.1.5 The ICB Director of People is responsible for management and governance frameworks that support the ICB employees' life cycle.

9. Annual reporting and Accounts

9.1 Annual Report and Accounts

9.1.1 The ICB Director of Finance will work with the other ICB Directors to ensure, on behalf of the Accountable Officer and ICB board, that:

- the ICB can produce its required monthly reporting, annual report, and accounts, and
- the ICB, in each financial year, prepares a report on how it has discharged its functions in the previous financial year

An annual report must explain how the ICB has:

- discharged its duties in relating to improving quality of services, reducing inequalities, the triple aim and public involvement.
- review the extent to which the board has exercised its functions in accordance with its published 5 year forward plan and capital resource use plan; and
- review any steps that the board has taken to implement any joint local health and wellbeing strategy.

9.1.2 NHS England may give directions to the ICB as to the form and content of an annual report.

9.1.3 The ICB must give a copy of its annual report to NHS England by the date specified by NHS England in a direction and publish the report.

9.2 Internal audit

9.2.1 The ICB Chief Executive, as the accountable officer, is responsible for ensuring there is appropriate internal audit provision in the ICB. For operational purposes, this responsibility is delegated to the ICB Director of Finance to ensure that:

- all internal audit services provided under arrangements proposed by the ICB Director of Finance are approved by the Audit Committee, on behalf of the

ICB board.

- the ICB must have an internal audit charter. The internal audit charter must be prepared in accordance with the Public Sector Internal Audit Standards (PSIAS).
- the ICB internal audit charter and annual audit plan, must be approved by the Audit Committee (on behalf of the Board).
- the head of internal audit must provide an annual opinion on the overall adequacy and effectiveness of the ICB Board's framework of governance, risk management and internal control as they operated during the year, based on a systematic review and evaluation.
- the head of internal audit should attend audit committee meetings and have a right of access to all audit committee members, the Chair and Chief Executive of the ICB.
- the appropriate and effective financial control arrangements are in place for the ICB and that accepted internal and external audit recommendations are actioned in a timely manner.

9.3 External Audit

9.3.1 The ICB Director of Finance is responsible for:

- liaising with external audit colleagues to ensure timely delivery of financial statements for audit and publication in accordance with statutory, regulatory requirements.
- ensuring that the ICB appoints an auditor in accordance with the Local Audit and Accountability Act 2014; in particular, the ICB must appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding financial year; the ICB must appoint a local auditor at least once every 5 years; and ensure that approval of external audit plan and annual fees is endorsed by Audit Committee
- ensuring that the appropriate and effective financial control arrangements are in place for the ICB and that accepted external audit recommendations are actioned in a timely manner.

10. Losses and special payments

10.1 HM Treasury approval is required if a transaction exceeds the delegated authority, or if transactions will set a precedent, are novel, contentious or could cause repercussions elsewhere in the public sector.

10.2 HM Treasury retains the authority to approve losses and special payments which are classified as being either:

- novel or contentious.
- contains lesson that could be of interest to the wider community.
- involves important questions of principle.
- might create a precedent; and/or
- highlights the ineffectiveness of the existing control systems.

10.3 Therefore, HMT Treasury approval is required if a transaction exceeds the delegated authority, or if transactions will set a precedent, are novel, contentious or could cause repercussions elsewhere in the public sector.

10.4 Losses and special payments are therefore subject to special control procedures compared to the generality of payments, and special notation in the accounts to bring them to the attention of parliament. The annual accounts reporting requirements are detailed herein.

10.5 For the avoidance of doubt, cases relating to ICB losses and special payments must be submitted to NHS England for approval if the proposed transaction values exceed the delegated limits that are detailed below or satisfy the conditions in section 10.2:

Expenditure type	Delegated limit
All losses	£300,000
Special Payments including Extra-Contractual/ Statutory/ regulatory/ compensation & Ex gratia	£95,000
Special severance & Retention payments	£0
Consolatory payments	£500

10.6 The ICB Director of Finance will support a strong culture of public accountability, probity, and governance, ensuring that appropriate and compliant structures, systems, and process are in place to minimise risks from losses and special payments.

10.7 NHS England has the statutory power to require an integrated care board to provide NHS England with information. The information is not limited to losses and special payments, must be provided in such form, and at such time or within such period as NHS England may require.

10.8 ICBs will work with NHS England teams to ensure there is assurance over all exit packages which may include special severance payments. ICB's have no delegated authority for special severance payments and will refer to the guidance on that to obtain approval of such payments

10.9 All losses and special payments (including special severance payments) must be reported to the ICB Audit Committee

10.10 For detailed operational guidance on losses and special payments, please refer to the ICB losses and special payments guide which includes delegated limits.

11. Fraud, bribery, and corruption (Economic crime)

11.1 The ICB is committed to identifying, investigating, and preventing economic crime.

11.2 The ICB Director of Finance is responsible for ensuring appropriate arrangements are in place to provide adequate counter fraud provision which should include reporting requirements to the board and audit committee, and define-roles and accountabilities for those involved as part of the process of providing assurance to the board.

11.3 These arrangements should comply with the NHS requirements, the [Government Functional Standard 013 Counter Fraud](#) as issued by NHS Counter Fraud Authority and any guidance issued by NHS England and NHS Improvement.

12. Capital Investments & security of assets and Grants

12.1 Capital Investments

12.1.1 The ICB Director of Finance is responsible for:

- ensuring that at the commencement of each financial year, the ICB and its partner NHS trusts, and NHS foundation trusts prepare a plan setting out their planned capital resource use.
- ensuring that the ICB and its partner NHS trusts, and NHS foundation trusts exercise their functions with a view to ensuring that, in respect of each financial year, local capital resource use does not exceed the limit specified in a direction by NHS England.

12.1.2 Specifically within the ICB, the Director of Finance is responsible for:

- ensuring the ICB has a documented property transfer scheme for the transfer of property, rights, or liabilities from ICB's predecessor Clinical Commissioning Group(s).
- ensuring that there is an effective appraisal and approval process in place for determining capital expenditure priorities and the effect of each proposal upon business plans.
- ensuring that there are processes in place for the management of all stages of capital schemes, that will ensure that schemes are delivered on time and to cost.
- ensuring that capital investment is not authorised without evidence of availability of resources to finance all revenue consequences; and
- for every capital expenditure proposal, the ICB Director of Finance is responsible for ensuring there are processes in place to ensure that a business case is produced.

12.1.2 Capital commitments typically cover land, buildings, equipment, capital grants to third parties and IT, including:

- authority to spend capital or make a capital grant; and
- authority to enter leasing arrangements.

12.1.3 Advice should be sought from the ICB Director of Finance or nominated officer if there is any doubt as to whether any proposal is a capital commitment requiring formal approval.

12.1.4 For operational purposes, the ICB shall have nominated senior officers accountable for ICB property assets and for managing property.

12.1.5 ICBs shall have a defined and established property governance and management framework, which should:

- ensure the ICB asset portfolio supports its business objectives; and
- comply with NHS England policies and directives and with this guidance

12.1.6 Disposals of surplus assets should be made in accordance with published guidance and should be supported by a business case which should contain an appraisal of the options and benefits of the disposal in the context of the wider public sector and to secure value for money.

12.2 Grants

12.2.1 The ICB Director of Finance is responsible for providing robust management, governance and assurance to the ICB with regards to the use of specific powers under which it can make capital or revenue grants available to;

- any of its partner NHS trusts or NHS foundation trusts; and
- to a voluntary organisation, by way of a grant or loan.

12.2.2 All revenue grant applications should be regarded as competed as a default position unless there are justifiable reasons why the classification should be amended to non-competed.

13. Legal and insurance

13.1 This section applies to any legal cases threatened or instituted by or against the ICB. The ICB should have policies and procedures detailing:

- engagement of solicitors / legal advisors.
- approval and signing of documents which will be necessary in legal proceedings; and
- Officers who can commit or spend ICB revenue resources in relation to settling legal matters.

13.2 ICBs are advised not to buy commercial insurance to protect against risk unless it is part of a risk management strategy that is approved by the accountable officer.

NHS West Yorkshire Integrated Care Board

Financial Scheme of Delegation

Approved by the West Yorkshire ICB Board 18 July 2023
(v2.0)

Note

The delegation limits stated herein are the limits delegated by the Integrated Care Board to Place Committees. Place Committees have the option to apply lower limits dependent on local operating models and approach to risk. Where such arrangements are in place, local Place Committees need to make arrangements for appropriate limits to be documented and approved locally and make them available to auditors as required.

Where local Place limits and processes are referred to below (for example section 6 continuing care package invoice payment authorities and processes), these should also be documented at Place level and be available to auditors as required.

Key Budget Terms

Admin / Running Costs/Non-Healthcare Costs	<p>Expenditure on activities which are not deemed direct frontline healthcare service provision for example, but not limited to:</p> <ul style="list-style-type: none"> • employee costs • expenditure on accommodation, including rent, rates, and maintenance; and • expenditure on comparable contracted-out services (including some consultancy costs) <p>Expenditure that does not fall within Admin budgets is known as Programme expenditure</p>
Budget	<p>Specific sum of money allocated to carry out a specific plan within a given period. It expresses plans and intentions in resource and financial terms having regard for the quantity and quality of services to be given. Budgets prepared by the ICB Director of Finance (ICB DOF), or Place Director of Finance (Place FD) on behalf of ICB Accountable Officer (ICB AO), or Place Accountable Officer, at the start of each financial year allow performance and delivery to be managed and monitored.</p>
Budget Book	<p>The budget book presents the budgeted spending plans for the ICB, and place-based Admin and Programme activities as approved by the Integrated Care Board and Place based Committees; prepared on a cost centre basis for key Budget Holders and Budget Managers.</p>
Prime Place based Budget Holder	<p>The Prime Place Based Budget Holder is the Place Accountable Officer</p>
Budget Holder	<p>In most circumstances the ICB's/or place based equivalent Budget Holders are the Executive Directors/Place based equivalents.</p> <p>Budgets are held by a single accountable person (a named Budget Holder as detailed in the Budget Book) who is responsible for running services or delivering specific objectives and is accountable for the associated spend.</p> <p>There can be several Budget Managers and Budget Supervisors who can carry out daily tasks on behalf of the Budget Holder, but the Budget Holder remains accountable for the budget.</p> <p>The Budget Holder is responsible for the approval of individual financial limits delegated to named Budget Managers and Budget Supervisors (Oracle 'Authorised Signatory' approval). These approval limits may vary between teams.</p>
Budget Manager	<p>In most circumstances the ICB's/or place based Equivalent Budget <u>Managers</u> are Business Unit Portfolio Holders/Heads of Department or equivalent</p> <p>The management of a budget may be delegated to a named Budget Manager(s) by the Budget Holder (as detailed in the Budget Book). In general, escalation is to the Budget Holder.</p> <p>Budget Managers are primarily responsible for day-to-day expenditure of funds, answerable to the Budget Holder for the way in which those funds have been used.</p>
Budget Supervisor	<p>Day to day management of a budget may be further delegated at a more granular level to a named Budget Supervisor(s). In general, this role is the lowest level of authority; escalation is to Budget Manager.</p>

Programme / Healthcare	Expenditure relating to the provision of healthcare services which directly support frontline patient care.
Virement	Transfer of funds from an unspent or underspent budget to another; within virement rules to allow greater financial flexibility in using available resources.

Purpose

The Financial Scheme of Delegation is derived from the Scheme of Reservation and Delegation incorporated within the Constitution and sets out the levels that day-to-day financial decisions are delegated to or defines delegated limits where appropriate.

The Scheme of Reservation and Delegation (SoRD) sets out those decisions which are reserved to the ICB Board and those which have been delegated to ICB Committees, Place Committees, or other individuals. The Scheme of Delegation sets out how the ICB Board has delegated their executive and non-executive powers.

The Financial Scheme of Delegation is a key financial control document across both ICB core and Place based functions and is therefore written to apply across both ICB core and Place. Where there are specific Place based variations, these are stipulated within the relevant sections.

As per the ICB overarching Scheme of Reservation and Delegation (SoRD), several functions are Delegated to Place Committees and therefore appropriate Place based decision making is reflected within this Operational Scheme of Delegation.

1. General

a) Flexibility for local place-based committees to set lower financial limits

The delegation limits stated herein are standardised limits delegated by the Integrated Care Board to Place Committees. Place Committees have the option to apply lower limits dependent on local operating models and approach to risk. Where such arrangements are in place, local Place Committees need to arrange for appropriate limits to be documented and approved locally and make them available to auditors as required.

Where local Place limits and processes are referred to below (for example section 6 continuing care package invoice payment authorities and processes), these should also be documented at Place level and be available to auditors as required.

b) Operating Models at Place, where 'shared' Accountable Officer posts with local authorities (etc.) are in place and Chief Operating Officer Posts exist

Where such arrangements exist, the Chief Operating Officer has the same delegated authority as the Accountable Officer

c) Deputising Arrangements to cover absences etc.

Deputising arrangements to cover absences etc. should always be formally documented and authorised.

Deputising arrangements should usually follow the principle of delegation up to a more senior level as opposed to delegation to a less senior officer. However, it is recognised that this is not always the most appropriate approach so flexibility exists but should always be formally documented and authorised (through the central process managed by finance) and kept on file to be made available to auditors as required.

Where the most senior officer (e.g., place accountable officer) is not available then delegation should be to another named member of the senior manager team, covering a fixed period and must also be appropriately documented and approved as per the defined process centrally managed by the finance function.

2. Budgetary Management and Control

Delegated matter	Detail	ICB Core	Place
Responsibility for keeping expenditure within budget	Responsibility at individual budget level (pay, non-pay and income)	ICB Budget Holder	Place Budget Holder
Changes to Budget Holders	Approval of new Budget Holders or changes to Budget Holder responsibilities (must be through formal central process managed by finance)	ICB Director of Finance or Deputy	Place Accountable Officer/Chief Operating Officer OR Place Operational Director of Finance or Deputy
Budget Virements (budget transfers)	<p>Within existing pay or non-pay budgets</p> <p>Transfers must be:</p> <ul style="list-style-type: none"> Affordable within budget Agreed by all relevant Budget Holders 	<ul style="list-style-type: none"> ≤ £300k – Budget Holder >£300k < £1.5m – ICB Deputy Director of Finance ≥ £1.5m ICB Director of Finance 	<ul style="list-style-type: none"> ≤ £300k – Budget Holder >£300k < £1.5m – Place Deputy Director of Finance ≥ £1.5m Place Operational Director of Finance
	<p>Between existing pay and non-pay budgets</p> <p>By exception</p>	<ul style="list-style-type: none"> ICB Director of Finance 	<ul style="list-style-type: none"> Place Accountable Officer/Chief Operating Officer OR Place Operational Director of Finance

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3. Commitment of new/repurposed Expenditure (recurrent and non-recurrent)

Amount refers to lifetime of expenditure, including any extensions, and VAT. Approved business case process and approval governance to be followed in all circumstances prior to commitment of expenditure.

Delegated matter	Detail	ICB Core	Place
Commitment of recurrent and non-recurrent expenditure (healthcare or running costs)	Funding must already be within allocated budgets or approved as variation to budget	<ul style="list-style-type: none"> • ≤ £250k – ICB Budget Holder • >£250k < £1.0m – ICB Director of Finance • ≥ £1.0m < £5.0m ICB Accountable officer <u>Chief Executive (or Deputy Chief Executive who is not Director of Finance)</u> and AND ICB Director of Finance • ≥ £5.0m Integrated Care Board 	<ul style="list-style-type: none"> • ≤ £250k – Place Budget Holder • >£250k < £1.0m – Place Accountable Officer/Chief Operating Officer OR Place Operational Director of Finance • ≥ £1.0m < £5.0m Place Accountable Officer/Chief Operating Officer AND Place Operational Director of Finance • ≥ £5.0m < £20m Place Committee • ≥ £20.0m Integrated Care Board
Commitment of Consultancy Expenditure	<p>Prior to consultancy expenditure being committed, the consultancy business case process must be completed and authorised.</p> <p>Important any proposed consultant spend >£50k – the NHSE proforma business case must be submitted to the ICB Director of Finance for approval before it is submitted to NHSE. The submission of any case to the ICB Director</p>	<ul style="list-style-type: none"> • ≤£50k – ICB Budget Holder and ICB Deputy Director of Finance • >50k < £500k – ICB Accountable Officer <u>Chief Executive (or Deputy Chief Executive who is not Director of Finance)</u> and AND ICB Director of Finance 	<ul style="list-style-type: none"> • ≤£50k – Place Budget Holder and Place Deputy Director of Finance • ≥£50k < £250k – Place Committee • >250k < £500k – ICB Accountable Officer and ICB Director of Finance <u>ICB Chief Executive (or Deputy Chief Executive who is not Director of Finance) AND ICB Director of Finance</u>

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Delegated matter	Detail	ICB Core	Place
	of Finance should be at least 6 weeks prior to the intended start-date for the proposed consultancy work.	<ul style="list-style-type: none"> ≥ £500k Integrated Care Board 	<ul style="list-style-type: none"> ≥ 500k Integrated Care Board

4. Procurement process and contract approval process

Prior to commencement of procurement process, funding must be appropriately identified and approved in line with appropriate ICB or Place business case process.

Contracts that exceed 12 Month Period and repeat orders with the same value that cover more than a 12-month period or that are open ended need to be considered as a total value (including VAT), not just the cost for the 12-month period.

Within year, the cumulative value must be considered for repeat contracts with providers for the same goods or services.

The ICB Board has delegated responsibility to the Transformation Committee, in accordance with the ICB's Constitution, Standing Orders and Scheme of Reservation and Delegation which will commission services which the Board agrees require acting at scale to deliver on the ICB's priorities and ambitions for people, including putting contracts and agreements in place to secure delivery of its plan by providers.

The Transformation Committee will agree clinical pathways, clinical thresholds, service specifications and service standards for matters which meet one or more of the '3 tests' for working at scale.

Delegated matter	ICB Core	Place
<p>Healthcare Services</p> <p>Decision to obtain tenders and approval of procurement methodology</p> <p>Decision for which Provider selection Regime (PSR) decision process to use (direct award, most suitable provider, or competitive process)</p>	<ul style="list-style-type: none"> <£25k — ICB Budget Manager (nb Value for money must be evidenced) ≥£25k < £663,540 — ICB Budget Manager — must evidence that advice has been obtained from procurement/contracting lead and evidence appropriate process. Appropriate procurement process must be evidenced and follow principles laid down in the ICB SFI's ≥ £663,540 < £5.0m ICB Budget Holder — must evidence that advice has been obtained from procurement/contracting lead and evidence 	<ul style="list-style-type: none"> <£25k — Place Budget Manager (nb Value for money must be evidenced) ≥£25k < £663,540 — Place Budget Manager — must evidence that advice has been obtained from place procurement/contracting lead and evidence appropriate process. Appropriate procurement process must be evidenced and follow principles laid down in the ICB SFI's ≥ £663,540 < £5.0m Place Budget Holder — must evidence that advice has been obtained from Place procurement/contracting lead and evidence appropriate process. Appropriate

Delegated matter	ICB Core	Place
	<p>appropriate process. Appropriate procurement process must be evidenced and follow principles laid down in the ICB SFI's</p> <ul style="list-style-type: none"> • ≥ £5.0m Integrated Care Board • < £1.0m Head of Contracting* for the relevant portfolio, in consultation with the budget manager. Appropriate PSR process must be evidenced and follow principles laid down in the ICB SFI's and Procurement Policy • ≥ £1.0m < £5.0m Director of Partner Relationship Management, in consultation with the ICB Budget Holder Appropriate PSR process must be evidenced and follow principles laid down in the ICB SFI's and Procurement Policy • ≥ £5.0m Integrated Care Board Appropriate PSR process must be evidenced and follow principles laid down in the ICB SFI's and Procurement Policy 	<p>procurement process must be evidenced and follow principles laid down in the ICB SFI's</p> <ul style="list-style-type: none"> • ≥ £5.0m Place Committee • < £1.0m Head of Contracting* for the relevant portfolio, in consultation with the budget manager. Appropriate PSR process must be evidenced and follow principles laid down in the ICB SFI's and Procurement Policy • ≥ £1.0m < £5.0m Director of Partner Relationship Management, in consultation with the Place Budget Holder Appropriate PSR process must be evidenced and follow principles laid down in the ICB SFI's and Procurement Policy • ≥ £5.0m Place Committee Appropriate PSR process must be evidenced and follow principles laid down in the ICB SFI's and Procurement Policy
<p>Non-Healthcare Services Decision to obtain tenders and approval of procurement methodology</p>	<ul style="list-style-type: none"> • <£25k <£30k – ICB Budget Manager (nb Value for money must be evidenced) • ≥£25k ≥£30k < £213,477 <£214,904 (except for services which still fall under the Light Touch Regime for which the upper threshold is < £663,540) – ICB Budget Manager Manager – must evidence that advice has been obtained from procurement/contracting lead and evidence appropriate process. Appropriate procurement process must be evidenced and follow principles laid 	<ul style="list-style-type: none"> • <£25k < £30k – Place Budget Manager (nb Value for money must be evidenced) • ≥£25k ≥£30k < £213,477 <£214,904 —(except for services which still fall under the Light Touch Regime for which the upper threshold is < £ 663,540) – Place Budget Manager Place Budget Manager – must evidence that advice has been obtained from place procurement/contracting lead and evidence appropriate process. Appropriate procurement process must be evidenced and follow

Delegated matter	ICB Core	Place
	<p>down in the ICB SFI's <u>and Procurement Policy</u></p> <ul style="list-style-type: none"> • <u>≥£213,477 ≥ £<214,904 < £1.5m (except for services which still fall under the Light Touch Regime for which the lower threshold is £663,540)</u> - ICB Budget Holder ICB Budget Holder – must evidence that advice has been obtained from procurement/contracting lead and evidence appropriate process. Appropriate procurement process must be evidenced and follow principles laid down in the ICB SFI's <u>and Procurement Policy.</u> • ≥ £1.5m Integrated Care Board <u>Appropriate PCR process must be evidenced and follow principles laid down in the ICB SFI's and Procurement Policy</u> 	<p>principles laid down in the ICB SFI's <u>and Procurement Policy</u></p> <ul style="list-style-type: none"> • <u>≥ £213,477 - ≥ £214,904 < £1.5m (except for services which still fall under the Light Touch Regime for which the lower threshold is £663,540)</u> - Place Budget Holder Place Budget Holder – must evidence that advice has been obtained from Place procurement/contracting lead and evidence appropriate process. Appropriate procurement process must be evidenced and follow principles laid down in the ICB SFI's <u>and Procurement Policy.</u> • ≥ £1.5m Place Committee <u>Appropriate PCR process must be evidenced and follow principles laid down in the ICB SFI's and Procurement Policy</u>
<p>Waiver of above procurement decisions/thresholds</p> <p><u>By Exception</u></p>	<p>Healthcare Services</p> <ul style="list-style-type: none"> • <u>< £663,540 ICB Budget Holder AND Procurement/contracting lead AND ICB Director of Finance.</u> <u>ICB formal waiver process MUST be followed.</u> • <u>≥ £663,540 ICB Accountable officer AND Procurement/contracting lead AND ICB Director of Finance AND ICB Accountable Officer.</u> 	<ul style="list-style-type: none"> • <u>< £663,540 Place Budget Holder AND Procurement/contracting lead AND Place Director of Finance/Place Operational Director of Finance AND Place Accountable Officer/or Chief Operating Officer, endorsed by.</u> <u>ICB formal waiver process MUST be followed.</u> • <u>≥ £663,540 Place Budget Holder AND Procurement/contracting lead AND Place Director of Finance/Place Operational Director of Finance AND Place Accountable Officer/Chief</u>

Delegated matter	ICB Core	Place
<p><u>Waiver of above procurement decisions/thresholds</u></p> <p><u>By Exception</u></p>	<p>ICB formal waiver process MUST be followed.</p>	<p>Operating Officer AND ICB Director of Finance.</p> <p>ICB formal waiver process MUST be followed.</p>
	<p>Non-Healthcare Services</p> <ul style="list-style-type: none"> <p>< £213,477</p> <p>ICB Budget Holder AND Procurement/contracting lead AND ICB Director of Finance.</p> <p>ICB formal waiver process MUST be followed.</p> <p>≥ £213,477</p> <p>ICB Budget Holder AND Procurement/contracting lead AND ICB Director of Finance AND ICB Accountable Officer.</p> <p>ICB formal waiver process MUST be followed.</p> <p><£30k no waiver required.</p> <p>≥ £30k < £214,904</p> <p>ICB Budget Holder AND ICB Senior Procurement Manager AND ICB Director of Finance.</p> <p>ICB formal waiver process MUST be followed.</p> <p>≥ £214,904</p> <p>ICB Budget Holder AND ICB Senior Procurement Manager AND ICB Chief Executive (or Deputy Chief Executive who is not Director of Finance) AND ICB Director of Finance</p> 	<p><£213,477</p> <p>Place Budget Holder AND Procurement/contracting lead AND Place Director of Finance/Place Operational Director of Finance AND Place Accountable Officer/Chief Operating Officer.</p> <p>ICB formal waiver process MUST be followed.</p> <ul style="list-style-type: none"> <p>≥ £213,477</p> <p>Place Budget Holder AND Procurement/contracting lead AND Place Director of Finance/Place Operational Director of Finance AND Place Accountable Officer AND ICB Director of Finance</p> <p>ICB formal waiver process MUST be followed.</p> <p><£30k no waiver required.</p> <p>≥ £30k < £214,904</p> <p>Place Budget Holder AND ICB Senior Procurement Manager AND Place Operational Director of Finance AND Place Accountable Officer</p> <p>ICB formal waiver process MUST be followed.</p> <p>≥ £214,904</p> <p>Place Budget Holder AND ICB Senior Procurement Manager AND Place Operational Director of Finance AND Place Accountable Officer AND ICB Chief Executive (or Deputy Chief</p>

Delegated matter	ICB Core	Place
	<p><u>ICB formal waiver process MUST be followed.</u></p>	<p><u>Executive who is not Director of Finance) AND ICB Director of Finance</u></p> <p><u>ICB formal waiver process MUST be followed.</u></p>
<p>Signing of Contracts</p> <p>New/renewal and variations</p>	<p>Healthcare Services and Non-Healthcare Services</p> <ul style="list-style-type: none"> • <u>< £1m Procurement/contracting lead</u> • <u>> £1m ICB Director of Finance or ICB Accountable Officer</u> • <u>< £1m Head of Contracting* for the relevant portfolio or Director of Partner Relationship Management</u> • <u>≥ £1.0m < £5.0m Director of Partner Relationship Management</u> • <u>> £5m ICB Director of Finance or ICB Chief Executive (or Deputy Chief Executive).</u> 	<ul style="list-style-type: none"> • <u>< £1m Procurement/contracting lead</u> • <u>> £1m Place Director of Finance/Place Operational Director of Finance or Place Accountable Officer or ICB Accountable Officer</u> • <u>< £1m Head of Contracting* for the relevant portfolio or Director of Partner Relationship Management</u> • <u>≥ £1.0m < £5.0m Director of Partner Relationship Management</u> • <u>> £5m Place Operational Director of Finance or Place Accountable Officer or ICB Chief Executive (or Deputy Chief Executive).</u>
	<p>Non-Healthcare Services</p> <ul style="list-style-type: none"> • <u>< £1m Procurement/contracting lead</u> • <u>> £1m ICB Director of Finance or ICB Accountable Officer</u> 	<ul style="list-style-type: none"> • <u>< £1m Procurement/contracting lead</u> • <u>> £1m Place Director of Finance/Place Operational Director of Finance or Place Accountable Officer or ICB Accountable Officer</u>

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***Note where the Place Director of Finance is a non-ICB employee, substitute 'Place Operational Director of Finance'.**

*This is the current job title designation of the responsible contract lead and may be subject to change.

5. Approval and payment of invoices

Unless otherwise stated, all delegated authority limits follow those set up in on the Oracle system. For example, budgets are delegated by the ICB Board to Place Committees, Place Committees then delegate to budget holders to fit with strategic and operational commissioning strategies/running costs envelopes.

There is a formal sign off process for budget holders to delegate further (as required) to budget managers/supervisors – the governance for this is controlled by the ICB core financial services function, linked to the budget books. This is audited on a regular basis. **Budget holders retains responsibility for budget even when delegated to budget manager/supervisors.**

The overarching principle is that budget holder/budget manager must approve all payments which are not fixed regular monthly payments as part of a signed contract. The principal budget holder at place level is always the Place Accountable Officer.

Delegated matter	ICB Core	Place
Invoice approval for regular fixed monthly contract payments in line with a signed contract held on the ICB/Place contract register	Budget holder, budget manager/supervisor or Finance lead or contracting officer in line with oracle limits	Budget holder, budget manager/supervisor or Finance lead or contracting officer in line with oracle limits
Invoice approval for non -fixed monthly contract payments for example but not limited to <ul style="list-style-type: none"> • CQUIN payments • Individual care packages • Contract reconciliation adjustments • Payments where a fixed regular contract amount has not been agreed, e.g., variable activity Any Qualified Provider contracts (AQP) 	Budget holder, budget manager/supervisor in line with oracle limits	Budget holder, budget manager/supervisor in line with oracle limits
Non- Contractual Activity Payments (NCA's)	Budget holder, budget manager/supervisor in line with oracle limits	Budget holder, budget manager/supervisor in line with oracle limits
Continuing Care Package (CHC)	Refer to specific central or place level arrangements	Refer to specific central or place level arrangements
Mental Health Act assessment fees	Refer to specific central or place level arrangements	Refer to specific central or place level arrangements
Individual Funding Request (IFR) payments	Refer to central level arrangements	Refer to central level arrangements
All other types of payment not captured above	Budget holder, budget manager/supervisor in line with oracle limits	Budget holder, budget manager/supervisor in line with oracle limits

6. Agreements, Licences, and Insurance Policies

Delegated matter	Detail	ICB Core	Place
Agreements and licences - general	Including but not limited to <ul style="list-style-type: none"> • Tenancy agreements • Lease agreements • Indemnity arrangements • Letting agreements • Approval of commercial arrangements (including vehicle insurance schemes) 	ICB Director of Finance or deputy	Place Director of Finance/Place Operational Director of Finance or deputy

7. Salary Payovers

Delegated matter	ICB Core	Place
Salary Payovers	Payment authority for but not limited to – tax, NI, pensions, salary sacrifice scheme payments	N/A

8. Disposal, special payments, losses, and compensation payments

Delegated matter	ICB Core	Place
Approval for all disposals, special payments, losses, and compensation payments	NHSE ICB losses and special payments policy/guidance MUST be followed – see separate guidance	N/A - see ICB Core

9. Off Payroll and Agency Engagements

Delegated matter	Detail	ICB Core	Place
Off payroll and agency staff arrangements where arrangements do not fall with definition of Very Senior Manager (VSM) definition below		Relevant formal Establishment Control Framework must be complied with in conjunction with HR Officer	Relevant formal Establishment Control Framework must be complied with in conjunction with HR Officer

Delegated matter	Detail	ICB Core	Place
		<p>In addition, recruiting officer must liaise with ICB Corporate Finance and evidence HMRC employment status tests have been complied with prior to formal engagement taking place</p>	<p>In addition, recruiting officer must liaise with ICB Corporate Finance and evidence HMRC employment status tests have been complied with prior to formal engagement taking place</p>
<p>Off payroll and agency staff arrangements where arrangements fall within definition of <u>Very Senior Manager (VSM)</u> definition</p>	<p>Where costs (excluding VAT) are either</p> <ul style="list-style-type: none"> • Greater than £600 per day or • Are below £600 per day but are for longer than a six-month period or are working in a position of significant influence 	<p>ICB Remuneration and Nomination Committee</p> <p>Recruiting officer must liaise with Finance and HR to ensure.</p> <ul style="list-style-type: none"> • HMRC regulations are dealt with. • NHS England approval process is complied with 	<p>ICB Remuneration and Nomination Committee</p> <p>Recruiting officer must liaise with Finance and HR to ensure.</p> <ul style="list-style-type: none"> • HMRC regulations are dealt with. • NHS England approval process is complied with

Terms of Reference:	Pharmaceutical Services Regulations Committee
Authorship:	Dawn Ginns
Board Responsible for Approving:	HNY / SY / WY ICB Integrated Care Boards
Approved Date:	April 2023
Review Date:	February 2025, and thereafter annually
Version Number:	1.0

Introduction and Governance

1. In accordance with the Health and Care Act 2022 NHS England has delegated the exercise of pharmaceutical services and local pharmaceutical services functions to Humber and North Yorkshire Integrated Care Board (ICB), South Yorkshire ICB and West Yorkshire ICB from the 1 April 2023.
2. In accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended ('the Regulations'), each ICB will establish a Pharmaceutical Services Regulations Committee (PSRC) to make decisions in relation to matters under the Regulations listed in Chapter 3 of the Pharmacy Manual where the decision maker is listed as 'the committee'.
3. For the purpose of this document, 'the committee' or 'committee' is the PSRC.
4. ICBs are required to establish committees that are the equivalent of NHS England's PSRCs. Where such a committee is established and is properly constituted in line with the Regulations, it is authorised by NHS England to undertake any activity within these terms of reference.
5. NHS England has delegated decision-making to each committee in relation to matters under the Regulations listed in this chapter where the decision-maker is listed as the committee.
6. Each ICB is responsible for fulfilling its own statutory responsibilities and is required to have its own committee to oversee certain functions. The ICBs have agreed that the PSRC should meet as 'committees in common'. This means that each committee meets simultaneously, but that each committee will retain responsibility for its own functions and will remain accountable to its own ICB Board.
7. Humber and North Yorkshire ICB, South Yorkshire ICB and West Yorkshire ICB have delegated decision making to their committee in relation to matters under the Regulations listed in Chapter 3 where the decision maker is listed as the committee.
8. The operation of a PSRC as a Committees in Common across Humber and North Yorkshire, South Yorkshire and West Yorkshire has been agreed as a way of working as part of the transfer of delegated functions and agreed by the three ICB Boards.

Membership, Voting and Conflicts of Interest

9. The voting membership of the committee shall be as follows:
 - Primary Care Lead, NHS South Yorkshire (Nominated Deputy – Community Pharmacy Clinical Lead).
 - Assistant Director of Primary Care, Humber and North Yorkshire ICB (Nominated Deputy – Chief Pharmacy Officer);
 - Senior Primary Care Manager, NHS West Yorkshire ICB (Nominated Deputy – Community Pharmacy Clinical Lead); and
 - Up to three lay members.
10. Due to the knowledge and understanding of the Regulations that is required, PSRC lay members are considered to be 'expert volunteers' for the purposes of NHS England's volunteering policy and should receive the appropriate fee.
11. All members of the committee must have a good knowledge and understanding of the Regulations in order to support sound and robust decision-making. It is essential that members build up and maintain their expertise in the Regulations and therefore minimum of 75% attendance at the Committee meetings is expected.
12. The Committee will ordinarily reach decisions by consensus. Where this is not possible the Chair of the Committee may call a vote. Each voting member in attendance at the Committee has one vote. Where there is a split vote, with no clear majority, the voting member not in attendance will hold the casting vote.
13. Each meeting of the committee will be quorate if at least two voting members, or their nominated deputy, is present from each ICB area.
14. Each committee must ensure it has access to expert knowledge on the Regulations and may obtain such legal or other independent professional advice as it considers necessary and may co-opt persons with relevant experience and expertise if required.
15. The following persons from the NHSE Primary Care teams aligned to each ICB will attend each committee meeting but will not have voting rights:
 - Primary Care Manager (or equivalent); and
 - Pharmacy professional adviser (or equivalent).

In addition, relevant ICB officers will be invited to attend the Committee meeting as appropriate.

16. Persons ineligible to be voting or co-opted members of a committee are listed in Regulation 62 and in paragraph 26(1) of Schedule 2 to the Regulations. All voting members must sign a declaration to confirm that they are not barred by virtue of this regulation or paragraph. The Chair can require any member to leave the room before discussion of a matter and not return until the relevant decision has been made. The minutes will record the absences of the relevant voting member or members.

17. No member may take part in a decision if, in the opinion of the remaining voting members, the circumstances set out in paragraph 26(2) of Schedule 2 to the Regulations apply (reasonable suspicion of bias).
18. Members must advise the Chair of any potential conflict of interest as soon as they become aware that a potential conflict may exist. Discussion of those potential conflicts will take place at the beginning of each meeting and the action taken to mitigate such conflicts recorded. Any conflicts will be considered and managed in accordance with the ICB's conflict of interest policy.
19. Administrative support to the committee will be provided by for South Yorkshire ICB, with West Yorkshire or Humber and North Yorkshire ICB providing cover as required.
20. Each committee will meet monthly as Committees in Common (or earlier if needed in order to discuss a case urgently) where there is a need. Where a meeting is not required, this will be documented in line with local procedures.
21. Each committee will provide a report setting out a summary of its activity, decisions taken and outcomes of any appeals against those decisions at least every six months to an appropriate senior management committee (to be determined by each ICB).
22. Health and Wellbeing Boards are responsible for identifying current or future needs for, or improvements or better access to, a pharmaceutical service or pharmaceutical services in general via the pharmaceutical needs assessment (PNA). Each committee is required to review the PNAs in its area and to record the actions taken to address identified needs, improvements or better access whether this is via the market entry process or through local commissioning processes.

Pharmacy Contract Manager (PCM) Decision Making

23. The Pharmacy Manual refers to Pharmacy Contract Manager (PCM) level decision making. ICBs are required to have an appropriately experienced officer in a role that is similar to the NHS England PCMs. Where such a person meets the requirements of the Regulations, they are authorised through the approval of these terms of reference to make the decisions in accordance with Appendix 1 of these terms of reference.
24. For the purpose of this document, 'the officer' or 'officer' is either the PCM or the ICB equivalent.
25. The ICB has delegated decision-making through the committee to the officer, or their suitable nominated deputy when they are on leave, in relation to matters under the Regulations listed in this chapter where the decision-maker is listed as 'officer or committee'.
26. Regulation 62 and paragraph 26(1), Schedule 2 to the Regulations lists those persons who may take no part in determining or deferring an application (see above for the full list). Before considering an application or making a decision that has been delegated to them, the officer must document that they are not

barred by virtue of the relevant regulation or paragraph mentioned at the beginning of the paragraph.

27. The officer may not make a decision if the circumstances set out in paragraph 26(2), Schedule 2 to the Regulations apply (reasonable suspicion of bias).
28. The officer will be responsible for such matters listed in this chapter where the decision-maker is listed as 'officer or committee'. If, for whatever reason, the officer is unable to make a decision within the required timeframe (or at all), that decision shall be taken by the committee.
29. The officer will report monthly to the committee on decisions taken and the outcome of any appeals on those decisions.
30. Where, as part of the workforce model agreed between NHS England and a delegated ICB, a person employed by a 'relevant body' (as defined in section 65Z5 of the NHS Act 2006) fulfils the role of the ICB's post that is the equivalent of the PCM, that person is delegated to make those decisions listed in this chapter as 'officer' or 'officer or committee' as described above.

Fitness to Practice Decisions

31. With effect from 1 April 2023, ICBs' committees will be responsible for all fitness decisions. The committee may seek professional advice in making these decisions. By local agreement, such advice might be from a pharmacy advisor or a person who is a member of a PAG, PSG or PLDP; and nominated by a medical director for system improvement and professional standards. For the avoidance of doubt, 'fitness matters' are defined as follows.
 - Determining whether or not an applicant is a fit and proper person to be included in the relevant pharmaceutical list when applying to be included in it for the first time.
 - Considering whether or not an applicant body corporate remains a fit and proper person to be included in the relevant pharmaceutical list following the grant of an application for inclusion in that list, but before the body corporate is so included, where it notifies the commissioner that it has appointed a new superintendent.
 - Review of conditions following the conditional inclusion of an applicant in a pharmaceutical list.
 - Use of the fitness powers in connection with a person who is already included in a pharmaceutical list or lists as set out in the NHS Act 2006 and the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended, to include removal, contingent removal, suspension and applying for a national disqualification. This could be as a result of a contractor notifying the commissioner of a fitness matter, the commissioner otherwise becoming aware of a fitness matter, or through contract management alongside, or instead of, use of the performance related sanctions.

32. Fitness decisions will be reported monthly to the PSRC on decisions taken in line with Chapter 4 of the Pharmacy Manual.

Accountability and Reporting

33. The Committees are accountable to their own ICB.

34. The Committee will review their own effectiveness and produce a Committee annual report as determined by detail set out in their own ICB's Constitution and Standing Orders.

35. Any minutes or key messages will be presented to the ICB Board as determined by each ICB's Constitution and Standing Orders.

Review of the Terms of Reference

36. These terms of reference will be reviewed in February 2025 and thereafter annually and/or each time the Pharmacy Manual is re-published to ensure they remain consistent with regulatory updates and changes.

Appendix 1

Regulatory provision	Decision maker	Chapter of manual
Regulations 13, 14 and 21A – determination of application (current need)	Committee	Chapter 12 Chapter 22
Regulations 15, 16 and 21A – determination of application (future need)	Committee	Chapter 13 Chapter 22
Regulations 17, 19 and 21A – determination of application (current improvement/better access)	Committee	Chapter 14 Chapter 22

Regulations 18 and 19 – determination of application (unforeseen benefits)	Committee	Chapter 15 Chapter 22
Regulations 20, 21 and 21A – determination of application (future improvement/better access)	Committee	Chapter 16 Chapter 22
Regulation 23 – determination of application (application from NHS chemist in respect of providing directed services)	Committee	Chapter 24
Regulation 24 – determination of application (relocation involving no significant change)	Committee	Chapter 17 Chapter 22
Regulation 25 – determination of application (distance selling pharmacies)	Committee	Chapter 18
Regulation 26(1) – determination of application (change of ownership)	Officer or committee	Chapter 19
Regulation 26(2) – determination of application (relocation involving no significant change/change of ownership)	Committee	Chapter 21 Chapter 22
Regulation 26A – determination of preliminary matters including refusal of application for reasons set out in Regulation 26A(5)(b)	Officer	Chapter 20
Regulation 26A – determination of application (consolidation onto an existing site)	Committee	Chapter 20
Regulation 27 – determination of application (for temporary listing arising out of suspension)	Committee	Chapter 25
Regulation 28 – determination of application (exercising right of return to the pharmaceutical list)	Officer or committee	Chapter 26
Regulation 29 – determination of application (temporary arrangements during emergencies/because of circumstances beyond the control of NHS chemists)	Officer or committee	Chapter 27
Regulation 30 – refusal on language requirement for some NHS pharmacists	Committee or PLDP	Chapter 4
Regulation 31 – refusal: same or adjacent premises	Committee	Not discussed
Regulation 32 – deferrals arising out of LPS designations	Officer or committee	Not discussed
Regulation 33 – determination of suitability of an applicant to be included in a pharmaceutical list on fitness grounds	Committee or PLDP	Chapter 4
Regulation 34 – determination of deferral of application to be included in a pharmaceutical list on fitness grounds	Committee or PLDP	Chapter 4
Regulation 35 – determination of conditional inclusion of an applicant to be included in a pharmaceutical list on fitness grounds	Committee or PLDP	Chapter 4
Regulation 36 – determination of whether an area is a controlled locality (or is part of a controlled locality), as a result of a local medical committee or local pharmaceutical committee request for such a determination or because NHS England is satisfied that such a determination is required (and make arrangements for any controlled locality to be clearly delineated on a published map)	Committee	Chapter 33
Regulation 37 – process for determining controlled localities: preliminary matters	Committee	Chapter 33
Regulation 40 – applications for new pharmacy premises in controlled localities: refusals because of preliminary matters	Committee	Not discussed
Regulations 41 and 42 – determination of whether premises are (or a best estimate is) in a reserved location (and make arrangements for any reserved location to be clearly delineated on a published map)	Committee	Chapter 32
Regulation 44 – prejudice test in respect of routine applications for new pharmacy premises in a part of a controlled locality that is not a reserved location	Committee	Chapter 32
Regulation 48(2) - determination of patient application ('serious difficulty' applications)	Officer or committee	Chapter 34

Regulation 48(5) to (9) – making of arrangements with a dispensing doctor to dispense to a particular patient or patients	Committee	Chapter 34
Regulation 50 – consideration of 'gradualisation' (ie the postponement of the discontinuation of services by dispensing doctors) for an application in relation to premises in, or within 1.6km of, a controlled locality	Committee	Chapter 33
Regulations 51 to 60 – determination of doctor application (outline consent and premises approval) including the taking effect of decisions, relocations, gradual introduction of premises approval, temporary provisions in cases of relocations or additional premises where premises approval has not taken effect, practice amalgamations, and lapse of outline consent and premises approval	Committee	Chapter 34
Regulation 61 – temporary arrangements during emergencies or circumstances beyond the control of a dispensing doctor	Officer or committee	Not discussed
Regulation 65(5) to (7) – direction to increase core opening hours	Officer or committee	Chapter 36
Regulation 67 – agreement of a shorter notice period for withdrawal from a pharmaceutical list	Committee	Not discussed
Regulation 69 – determination of whether there has been a breach of terms of service	Committee	Chapter 38
Regulation 70 – determination of whether to issue a breach notice with or without an accompanying withholding of payments in connection with a breach of terms of service. Determination of whether to rescind a breach notice	Committee	Chapter 38
Regulation 71 – determination of whether to issue a remedial notice with or without an accompanying withholding of payments in connection with a breach of terms of service. Determination of whether to rescind a remedial notice	Committee	Chapter 38
Regulation 72 – determination of whether to withhold remuneration	Committee	Chapter 38
Regulation 73 – determination of whether to remove premises or a chemist from the pharmaceutical list (following remedial or breach notice)	Committee	Chapter 38
Regulation 74 – determination of whether to remove premises or a chemist from the pharmaceutical list (death, incapacity or cessation of service)	Committee	Chapter 38
Regulation 79 – determination of review of fitness conditions originally imposed on the grant of an application	Committee or PLDP	Chapter 32
Regulation 80 – determination of removal of a contractor for breach of fitness conditions	Committee or PLDP	Chapter 31
Regulation 81 and 82 – determination of removal or contingent removal	Committee or PLDP	Chapter 32
Regulation 83 – suspensions in fitness cases	Committee or PLDP	Chapter 32
Regulation 84 – reviewing suspensions and contingent removal conditions	Committee or PLDP	Chapter 32
Regulation 85 – general power to revoke suspensions in appropriate circumstances	Committee or PLDP	Chapter 32
Regulation 94 – overpayments	Committee	Chapter 39
Regulation 99 – designation of an LPS area	Committee	Chapter 40
Regulation 100 – review of designation of an LPS area	Committee	Chapter 40
Regulation 101 – cancellation of an LPS area	Committee	Chapter 40
Regulation 104 – selection of an LPS proposal for development and decision to adopt proposal	Committee	Chapter 40
Regulation 108 – right of return for LPS contractor	Committee	Chapter 40
Schedule 2, paragraph 1(10) – whether a best estimate is acceptable	Officer or committee	Chapter 29

Schedule 2, paragraph 11(1) – determination of whether there is missing information	Officer	Chapter 29
Schedule 2, paragraph 11(2)(b) – determination of review of reasonableness of request for missing information	Officer or committee	Chapter 29
Schedule 2, paragraph 14 – whether to defer consideration of application	Officer or committee	Chapter 29
Schedule 2, paragraph 19 – determination of who is to be provided with notice of a notifiable application	Officer	Chapter 29
Schedule 2, paragraph 21(4) – determination of whether the full disclosure principle applies to information contained within a notifiable application	Committee	Chapter 29
Schedule 2, paragraph 22(2) – whether oral representations are to be provided and who may be additional presenters as defined in Schedule 2, paragraph 25(2)	Officer or committee	Chapter 29
Schedule 2, paragraph 25 – decision to hold an oral hearing to determine an application	Committee	Not discussed
Schedule 2, paragraph 28 – determination of who is to be notified of decisions on routine and excepted applications	Officer or committee	Chapter 29
Schedule 3, paragraph 30 – determination of who is to have a third party right of appeal against decisions on routine and excepted applications	Officer or committee	Chapter 29
Schedule 2, paragraph 31 – consideration of a notification of address following a 'best estimate' routine application. Where this may lead to a refusal under regulation 31, the matter should be escalated to the committee	Officer or committee	Chapter 29
Schedule 2, paragraph 32 – determination of whether to accept a change to premises	Officer or committee	Not discussed
Schedule 2, paragraph 33 – determination as to whether the future circumstances have arisen	Officer	Not discussed
Schedule 2, paragraph 34 – decisions as to whether notices of commencement are valid, and whether a shorter notice period can be given	Officer	Not discussed
Schedule 2, paragraph 34A – decisions as to whether notices of consolidation are valid, and whether a shorter notice period can be given	Officer	Not discussed
Schedule 2, paragraph 34(4)(c)(i) and 34A(4)(b)(i) – extension of latest date for receipt of notice of commencement or consolidation	Officer or committee	Chapters 12–21, 24– 27
Schedule 2, paragraph 35 – notice requiring the commencement of pharmaceutical services	Officer or committee	Not discussed
Schedule 4, paragraph 23(1)/Schedule 5, paragraph 13(1) – consideration of a request to temporarily suspend the provision of services (fixed period)	Committee	Not discussed
Schedule 4, paragraphs 23–25/Schedule 5, paragraphs 13–15 – decision to direct a contractor to open at certain times on certain days	Committee	Chapter 37
Schedule 4, paragraph 23(10)/Schedule 5, paragraph 9 – review of reason for temporary suspension within the control of the contractor	Committee	Not discussed
Schedule 4, paragraph 26/Schedule 5, paragraph 16 – determination of core opening hours instigated by the contractor	Committee	Chapter 37
Schedule 4, paragraph 27/Schedule 5, paragraph 17 – temporary opening hours and closures during an emergency requiring the flexible provision of pharmaceutical services	Officer or committee	Not discussed
Schedule 4, paragraph 27B – flexible provision of relevant immunisation services during a pandemic	Officer	Not discussed
Schedule 4, paragraph 28A – premises requirements in respect of consultation rooms – decisions that a pharmacy premises is too small	Officer or committee	Not discussed

Schedule 5, paragraph 13(6) – arranging for amendments to be made to the relevant pharmaceutical list following notification of a change of supplementary opening hours (where change is not intended to come into effect sooner than three months after receipt of notification of change)	Officer or committee	Chapter 37
Decisions relating to compliance with the dispensing doctor terms of service	Committee	Not discussed
Approval of responses to an appeal against, or challenge to, decisions of the committee	Officer or committee	Not discussed
Approval of responses to an appeal against, or challenge to, decisions of the officer	Officer or committee	Not discussed
Determination of further action where community pharmacy assurance framework identifies concerns	Officer or committee	Chapter 38
Determination of further action where the contractor fails or refuses to agree a date and time for a visit	Officer or committee	Chapter 38
Determination of action where any of the following are identified: <ul style="list-style-type: none"> • patient safety issues • the commissioner is at risk of material financial loss, and/or possible fraudulent or criminal activity. 	Officer or committee	Chapter 38
Determination of action where the contractor fails to complete the required actions or fails to respond to a visit report	Officer or committee	Chapter 38
Determination of action where the contractor exceeds the maximum number of appliance use reviews that may be done in any one year	Officer	Chapter 38