

Annex One

Consultancy spending approval process: Initial guidance to NHS foundation trusts

Summary

1. Monitor, the NHS Trust Development Authority (TDA) and NHS England are jointly implementing an approval process over consultancy spend among NHS providers and NHS commissioners.
2. Monitor, TDA and NHS England recognise that consultancy supports NHS organisations in making key operational and strategic improvements, and also that Monitor and TDA themselves require providers to commission substantial amounts of consultancy work. However, we know that the NHS often achieves poor value for money from this expenditure. We cannot continue to spend on this scale without getting maximum value for money. The approval process will require NHS providers and NHS commissioners to demonstrate the value for money of proposed consultancy support against a number of assessment criteria.
3. From 2 June 2015, NHS foundation trusts receiving interim support from the Department of Health and NHS foundation trusts that are in breach of their licence for financial reasons are required to secure advance approval from Monitor before:
 - signing new contracts for consultancy projects over £50,000
 - extending or varying existing contracts or incurring additional expenditure to which they are not already committed (where the total contract value exceeds £50,000)
4. All other NHS foundation trusts, particularly those under investigation by Monitor for financial breaches or planning a deficit for 2015/16, are strongly encouraged to comply. Monitor will take into account contracts that are poor value for money when considering the need for regulatory action concerning any potential breaches of governance licence conditions.
5. From 2 June 2015, NHS foundation trusts covered by this approval process must send Monitor a post-implementation report on all procured and let consultancy projects, detailing the benefits and value-add of these and

identifying where intellectual property of wider benefit to the NHS has been created. Where contracts are multi-year, Monitor may request interim reporting.

Rationale

6. Spending by NHS providers on management consultants was £420 million in 2014/15, having risen substantially over recent years. We recognise that consultancy can add value when local management teams lack either the capacity or capability to address issues, and also that Monitor and TDA themselves require providers to commission substantial amounts of consultancy work. However, we know that the NHS often achieves poor value for money from this expenditure either because the work is poorly scoped, procured and managed, or because the findings are not fully implemented.
7. Given the current level of provider deficit we cannot continue to spend on this scale without getting good value for money. We are therefore putting in place support and an approval process at a national level so that only good value for money consultancy is commissioned and, where possible, generic technical advice is widely shared within the NHS.

Support

8. Monitor is committed to providing a greater degree of support to foundation trusts commissioning consultancy services and will make this support available over the summer.
9. This support will consist of:
 - Guidance to support foundation trusts to meet the assessment criteria for approval of a business case. We will publish detailed guidance and FAQs on our website towards the end of June
 - generic scopes for common management consultancy projects
 - standard contract clauses requiring consultants to make non-commercially sensitive work widely available
 - bespoke advice and support for the largest projects

- direct engagement with the major management consultancy firms on how the new approval process will operate.

The approval process

10. Consultancy contracts over £50,000 require prior approval by Monitor (the £50,000 threshold includes irrecoverable VAT and other costs, eg expenses). Foundation trusts are required to submit a [business case approval form](#) to businesscases@monitor.gov.uk; this will be reviewed by Monitor's Foundation Trust Consultancy Approval Panel. This panel exercises the authority of the Chief Executive, the Managing Director of Provider Regulation and the Finance, Reporting and Risk Director.
11. The approval process comes into effect on 2 June 2015 and applies to all future contracts, including those where contractual negotiations are in progress.
12. Foundation trusts are required to secure advance approval from Monitor before extending or varying existing contracts or incurring additional expenditure to which they are not already committed, where the total value of the contract (including the proposed extension) exceeds £50,000. Foundation trusts are required to submit a business case for the extension value prior to the contact being extended.
13. The approval process applies to contracts that are accounted for as revenue expenditure. It does not currently apply to contracts accounted for as capital expenditure.
14. For the purposes of this approval process, 'consultancy' is defined as in the 'NHS Manual for Accounts' (strategy; finance; organisational and change management; IT; property and construction; procurement; legal services; marketing and communications; human resources, training and education; programme and project management; technical).
15. Certain areas are initially exempt from the approval process. Foundation trusts are **not** currently required to submit a business case to Monitor for approval of:
 - contracts below £50,000 (including irrecoverable VAT and other costs)
 - interim management and day rate contractors
16. Consultancy procurement that has been formally directed by Monitor's regulation or enforcement undertakings is included in the approval process.

Foundation trusts directed to procure support by Monitor are required to submit a business case for the proposed procurement that demonstrates value for money against the assessment criteria.

17. Please note that internal and external audit, and local counter fraud services, are not included within the approval process.

Having a business case approved

18. Please send [business case approval forms](#) to businesscases@Monitor.gov.uk.
19. The panel will review each business case against a number of assessment criteria. For proposed consultancy expenditure within the scope of the approval process (as outlined in the previous section), foundation trusts are required to provide evidence of the value of this against the criteria outlined below:

Assessment criteria	
Criteria we are assessing	What we are looking for
Ambition to deliver something of value, importance and relevance	<ul style="list-style-type: none"> • Evidence that the trust's strategic and operational objectives are supported by this proposed work. We are looking for relevance to your organisation's business plans • Evidence on how this work aligns with the local health economy strategy • Specific deliverables that clearly support the overall objectives of the work and the organisation's business plans • Details of the clinical case where the proposed work directly affects the provision of services for patients or quality improvement • An explanation as to why the proposed service cannot be resourced internally or sourced from peer organisations. We are also looking for efforts to ensure skills will be transferred to permanent staff, where appropriate • An outline of what the impact will be on the trust objectives and business planning, staff and patient care if approval is not given for the business case
Clear scope	<ul style="list-style-type: none"> • Evidence that the scope is clear, defined and well thought through • Detail on how the scope has been developed including any engagement with patients, clinicians, commissioners

	<p>or suppliers</p> <ul style="list-style-type: none"> • Evidence that the trust can manage the supplier, control spend and hold the supplier account for delivering value for money • Assurance that the trust can deliver the scope as planned • Details of payment structure, particularly details of approaches to link payment to deliverables, eg arrangements to ensure effective communication between staff approving and processing payments and the project team receiving and evaluating the work
Robust contract management	<ul style="list-style-type: none"> • Evidence that the trust can manage the supplier, control spend and hold the supplier account for delivering value for money • Assurance that the trust can deliver the scope as planned • Details of payment structure, particularly details of approaches to link payment to deliverables, eg arrangements to ensure effective communication between staff approving and processing payments and the project team receiving and evaluating the work
Capacity to implement findings/recommendations	<ul style="list-style-type: none"> • Evidence that the trust has the capacity to act on or implement findings/recommendations of the procured work • Examples of previous success in realising benefits
Timeline of work	<ul style="list-style-type: none"> • Evidence of a well-thought-through and realistic timeline, with details on when expected outcome will be delivered
Robust implementation review proposal	<ul style="list-style-type: none"> • An outline of how the effectiveness of the consultancy support procured will be reviewed, with particular focus on benefits and value add
Value on price	<ul style="list-style-type: none"> • Evidence of the proposed procurement/resourcing method, including how you reached or propose to reach the decision that this is the best way to meet your business requirements (some evidence of options appraisal) • Evidence of sourcing the best value supplier and evidence of negotiation over rates • Details of the basis of payment and why this will achieve best value, eg does the contract propose a fixed fee, contingent fee, etc and how will any risks within the payment structure be managed? • Details of agreed benchmarking rates, referencing where possible agreed framework rates
Wider use of findings	<ul style="list-style-type: none"> • Whether or not there are any contractual restrictions to sharing the outcomes of this work with the wider sector. Where the outcomes are not commercially sensitive, we will expect all future work to be made available for the wider benefit of the NHS, particularly where the advice is technical and likely to be generic to similar situations • We expect this right of access to be written into contracts. You should check that a contract clause is in place allowing for the wider use of any generic technical findings, and also that the deliverables have been scoped so that such technical work is as far as possible separated from any commercially sensitive elements of the scope

20. Approval will be given to business cases that clearly demonstrate good value for money against the assessment criteria. Approval will also likely be given to externally funded projects that support a national programme such as the Five Year Forward View 'Vanguard' models.
21. Business cases can be submitted either after the conclusion of a procurement process or in advance of procurement. However, cases submitted in advance of procurement will need to include sufficient details to provide assurance that the criteria will be met.
22. Cases do not need to be long. Strong cases can be presented concisely and without excessive supporting statements. Poorly written or excessively long cases are likely to take us longer to decide on.
23. On completion of approved consultancy projects, foundation trusts are required to submit to Monitor a report detailing the benefits of the work and value add.

Compliance

24. All other NHS foundation trusts, particularly those in breach of the financial conditions of their licence, under investigation by Monitor for financial breaches or planning a deficit for 2015/16, are strongly encouraged to comply. Monitor will take into account contracts that are poor value for money when considering the need for regulatory action concerning any potential breaches of governance licence conditions.
25. From Q2 2015-16, Monitor will collect detailed financial data on consultancy contract procurement within our regular monitoring templates.
26. Evidence suggesting organisations are seeking to avoid this approval process through splitting contracts, manipulating contract scope or substituting contracts with high cost interims or secondees from consultancies will be subject to follow-up by Monitor.
27. Please send all queries to businesscases@Monitor.gov.uk