



Department
of Health &
Social Care

Protocol for Public and Parliamentary Accountability between the Department of Health and Social Care and NHS Business Services Authority 2020/21 - 2023/24

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1. Introduction

- 1.1 The Department of Health and Social Care (DHSC) and its arm's-length bodies (ALBs) place great importance on public and Parliamentary accountability. The Framework Agreement between DHSC and NHS Business Services Authority (NHSBSA) sets out the accountabilities of each organisation. The purpose of this document is to build on that agreement in terms of the practical implementation of the public and Parliamentary accountability work.
- 1.2 This protocol sets out how DHSC and NHSBSA will work together to secure the confidence of the public and Parliament, and to maintain the service levels that MPs and the public have come to expect. The protocol does not cover general briefings, policy briefing to officials, media queries, policy development or meetings between civil servants as these matters are covered in the Framework Agreement.
- 1.3 This protocol will be reviewed every three years, or sooner upon request of either party.

Purpose

- 1.4 The purpose of this joint protocol is to set in place robust public and Parliamentary accountability arrangements and to ensure good communication and effective collaborative working between the two organisations. It is intended to help both organisations:
 - Meet their respective public and Parliamentary responsibilities;
 - Set out their own operational needs;
 - Understand their own role and responsibilities;
 - Develop and strengthen collaborative partnership working; and
 - Secure the confidence of the public, MPs and peers.

This protocol will take effect from 1st April 2020

Working Together

- 1.5 Both organisations agree to work together to ensure that a consistent approach is taken, where reasonable, thereby securing the confidence of the public, ministers, MPs, and peers alike. In doing so, DHSC and NHSBSA will:

- Share information about topics of interest to the public or the media;
- Share information about sensitive or contentious issues; and
- Advise each other of changes to roles, responsibilities and strategic direction or policy.

2. Quality, Consistency and Performance Standards

- 2.1 DHSC and NHSBSA have agreed to establish and maintain robust arrangements that support public and Parliamentary accountability across the health and social care structure. It is essential that we secure the trust and confidence of ministers, and that the service we provide to MPs, peers and the public is consistent and seamless.
- 2.2 To this end, DHSC and NHSBSA have put in place named contacts, adequate resources and robust processes to deal with the handling of public enquiries, correspondence, Parliamentary Questions (PQs) and all other types of Parliamentary business, Freedom of Information (FOI) requests and complaints in line with ministerial and Parliamentary expectations and timescales. A list of the named contacts for both organisations can be found at Annex A.
- 2.3 DHSC and NHSBSA have agreed to work collaboratively to ensure high quality and performance standards are maintained.

Role of DHSC

- 2.4 DHSC will:
- Commission answers to Parliamentary Questions (PQs) and briefing, including a clear steer on the purpose of the request, allowing as much time as possible within Parliamentary and other timescales for NHSBSA to provide a tailored response and to allow Ministers time to meet their obligations to Parliament;
 - Work with NHSBSA to help it secure sufficient resources, and train staff to have the skills and knowledge required to provide contributions, briefing and replies that meet the required standards of timeliness, accuracy and reliability of content, and method of presentation that apply across DHSC and all of its ALBs;
 - Ensure that an appropriate level of SCS oversight is applied to NHSBSA's responses and support NHSBSA in maintaining quality assurance and appropriate senior level clearance arrangements;
 - Provide advice and guidance on records management;
 - Provide advice (as required) on FOI legislation;

- Consider each FOI request on a case by case basis, on its individual merits. DHSC will consult NHSBSA where necessary and collaborate on FOI requests (for example if there is a joint DHSC and NHSBSA interest, or if the requested information relates to NHSBSA);
- Where an FOI request is made of DHSC and the information requested is a) not held by the Department and b) likely to be held by NHSBSA, DHSC will advise the requester to contact NHSBSA directly;
- Provide advice (as required) on responsibilities under the Data Protection Act 2018 (DPA) and General Data Protection Regulation 2018 (GDPR);
- Provide guidance on information risk management and advise NHSBSA on mandatory controls and reporting;
- As set out in the DHSC/NHSBSA Framework Agreement, ensure that NHSBSA is sighted on DHSC policy and share information to ensure that both organisations work together seamlessly; and
- Discuss and agree public and Parliamentary performance standards which are realistic and achievable for NHSBSA.

Role of NHSBSA

2.5 NHSBSA will:

- Provide information for PQ answers, briefing and contributions that allow Ministers to meet their obligations under the Ministerial Code, meet Cabinet Office and DHSC requirements, that are timely, comprehensive, accurate, true and fair, and engage meaningfully with the question or issue raised;
- Provide resources and training to staff to ensure that correspondence contributions, briefing and PQ replies meet DHSC's style, quality and timeliness standards, and which answer the points raised;
- Put in place robust systems to manage and archive all public and Parliamentary accountability work;
- Establish quality assurance and arrangements for clearance by a NHSBSA Director (or a named senior officer with delegated authority);
- Ensure that FOI responses meet the requirements of FOI legislation on timeliness and provision of information. NHSBSA will embrace the Government's commitment to openness and transparency;

- Consider each FOI request on its individual merits. NHSBSA will consult DHSC where necessary and appropriate on FOI requests (for example if there is a joint DHSC and NHSBSA interest, or if the requested information relates to DHSC);
- Ensure that responses to requests made and issues raised under the DPA/ GDPR are handled in a timely and appropriate way in line with the requirements of the legislation and good information privacy standards;
- Ensure that DHSC is sighted on issues affecting NHSBSA and share information to ensure that both organisations work together to form a ‘no surprises’ culture, as set out in the DHSC/ NHSBSA Framework Agreement;
- Ensure sufficient resources and arrangements for senior clearance are available to provide accurate briefing, answers to PQs, and correspondence contributions within the deadlines set by DHSC;
- Secure capacity and capability to ensure that at least 90% of correspondence addressed to NHSBSA is replied to within 5 working days;
- Have sufficient resource to ensure that FOI requests are responded to within 20 working days of receipt, in line with legislation;
- Maintain sufficient resources to ensure that Subject Access Requests (SARs) and Data Protection queries are responded to within one month of the day of the request, in line with the requirements of the General Data Protection Regulation (GDPR); and
- Ensure arrangements are in place to respond to telephone enquiries.

Role of the DHSC Sponsor Team

- 2.6 The DHSC sponsor team’s primary role is to liaise between NHSBSA and the wider Department (and, where necessary, the rest of Government). It is a supportive and facilitative relationship, based on the acknowledgement that NHSBSA is best placed to carry out its own business. The sponsor team will, however, be expected to assure itself that NHSBSA’s own public and Parliamentary work and contribution to that of DHSC, both meet the required DHSC standards.
- 2.7 The sponsor team will advise DHSC Policy Leads to contact NHSBSA's Governance and Assurance Manager and Head of Governance (see Annex A). However, it is recognised that they will have an existing relationship with NHSBSA staff and may copy them in but the request will clearly indicate that the Governance Team will respond.

- 2.8 The sponsor team will advise the NHSBSA Governance Team where parliamentary or public contact has the potential to pose a reputational risk or generate media interest. The Governance Team will advise and ensure the involvement of the NHSBSA Communications Team, where necessary.

Multi-Issue Policy Areas

- 2.9 Responses to issues that span more than one ALB should be coordinated by the most appropriate policy or sponsor team in DHSC (which could include delegating the work to the lead ALB). It will be the responsibility of the DHSC to ensure that there are no “Orphan” policy areas or issues.

Monitoring the Protocol

- 2.10 One of the roles of the ALB oversight team is to review the accountability arrangements across the health and social care landscape, in order to satisfy itself that DHSC and NHSBSA (and the other ALBs) are responding appropriately to all public and Parliamentary business and within an agreed time frame.
- 2.11 The NHSBSA Sponsor Team and NHSBSA PPA team will discuss the operation of this protocol, including the appropriateness and timeliness of all public and parliamentary business at least quarterly.

3. Parliamentary Accountability

- 3.1 This will involve responsibilities around a number of Parliamentary accountability processes, including Parliamentary questions, MPs' correspondence, debates and committee hearings.
- 3.2 Ministers are required to respond to debates and Parliamentary questions etc and NHSBSA has agreed to provide DHSC with contributions to speeches, suggested answers and briefing as appropriate that enables Ministers to account for NHSBSA. Briefing will include relevant background information, in the format requested by DHSC, and be signed off by a senior member of NHSBSA.
- 3.3 In order to emphasise organisational responsibilities and accountabilities, Ministers will take every opportunity to explain relevant organisational responsibilities and encourage MPs and peers to liaise directly with NHSBSA.
- 3.4 DHSC and NHSBSA have agreed to give sufficient notice of requests and provide timely responses in order to meet Parliamentary deadlines. The process for this is set out below.

Oral questions and debates

- 3.5 DHSC policy leads/sponsor team will alert NHSBSA to the oral question or debate promptly and normally on the day of receipt. The DHSC policy lead/sponsor team will provide NHSBSA with a clear commission, including a steer on what should be covered.
- 3.6 NHSBSA will provide accurate information (and background where appropriate), in the format required by DHSC, in order that the deadline set by Ministers is met. Responses will be cleared through NHSBSA at Director level, or by an appropriate senior officer with delegated authority in that particular subject area. DHSC will clear responses at Senior Civil Servant (SCS) level. NHSBSA will copy their response to the Head of Communications and Marketing and nhsbsa.communicationsteam@nhs.net.

Written questions concerning matters entirely within the responsibility of NHSBSA

- 3.7 DHSC policy leads/sponsor team will alert NHSBSA to the question on the day of receipt and seek a full answer and relevant background material for the Minister to consider.

- 3.8 The general approach is that answers need to be substantive, even if couched in terms of 'the advice we have received from NHSBSA is that...'
- 3.9 NHSBSA will establish clearance arrangements at a level equivalent to SCS to ensure that responses are to the required standard and that they are returned within the deadlines set. DHSC will review the information provided by NHSBSA through the normal SCS clearance arrangements. NHSBSA will send their response to the requester, copying in the NHSBSA Communications Team.

Select Committees

- 3.10 DHSC will request from NHSBSA any necessary information and briefing promptly to enable a Minister or official to provide written or oral evidence to a select committee. The commission will be clear and provide a steer on what should be included. NHSBSA will copy their response to the requester.
- 3.11 NHSBSA will also provide information promptly to select committees directly in appropriate circumstances. NHSBSA will copy their response to the requester.
- 3.12 On occasion, NHSBSA may be required to present information at select committee, either individually or jointly with DHSC.

National Audit Office and Public Accounts Committee

- 3.13 Public Accounts Committee (PAC) inquiries supported by National Audit Office (NAO) reports follow a different process from other select committees. In the case of NAO reports concerning the business of NHSBSA, DHSC and NHSBSA will share their individual clearance documents with each other and liaise with each other where relevant on negotiating changes to reports before publication. For Government responses to PAC recommendations, which take the form of a Treasury Minute and are subject to strictly prescribed formats and timescales, DHSC and NHSBSA will work closely together to prepare agreed responses, with timely involvement at a sufficiently senior level on both sides to meet HMT deadlines and to allow time for clearance by DHSC and NHSBSA Accounting Officers and Ministers. DHSC and NHSBSA will take steps to implement those recommendations which are accepted and to report on their progress.

All Party Parliamentary Groups

- 3.14 DHSC and NHSBSA will sometimes be approached to provide briefing, written and oral evidence by All Party Parliamentary Groups (APPGs) on specific issues. These groups do not have the formal status of Parliamentary Select Committees

but DHSC and NHSBSA will wish to be helpful in providing them with information. It may not always be possible for very senior staff to meet all requests to attend meetings, so alternatives such as written briefings or meetings with senior staff below Board level may be suggested instead.

Correspondence from MPs sent directly to NHSBSA

- 3.15 This is MP correspondence addressed to the Chair, Chief Executive or another official in NHSBSA about matters relating to the business of the organisation.
- 3.16 NHSBSA will normally respond directly to the MP. It is usual for the addressee to reply, but this will be a matter for NHSBSA to determine. NHSBSA will aim to respond within DHSC's standard deadlines (currently 5 working days) from the date of receipt.
- 3.17 On occasion, MP correspondence may refer to both NHSBSA and DHSC business. When handling such correspondence, NHSBSA should reply answering the enquiries about NHSBSA business, explaining the independence of NHSBSA and recommending that the MP writes to DHSC about the issues relating to it. In such circumstances, NHSBSA will advise DHSC policy lead and sponsor team how it has responded and alert that the MP may be in contact soon.

Correspondence from MPs to DHSC about NHSBSA responsibilities

- 3.18 This is MP correspondence addressed to DHSC ministers or officials, but which relates to the business of NHSBSA.
- 3.19 It is protocol for a DHSC minister to respond to MP correspondence. When an MP has written to DHSC about an issue which relates solely to NHSBSA business, the Minister will reply explaining the independence of NHSBSA and signposting the MP to that organisation.
- 3.20 In instances where the correspondence covers both Departmental and NHSBSA responsibilities, DHSC will reply addressing the issues it is responsible for and signposting the MP to NHSBSA. There may be occasions when the matter is so sensitive that Ministers consider that it is more appropriate to respond fully to the correspondence. In such cases, the most appropriate DHSC official will discuss and agree the handling approach with NHSBSA.
- 3.21 When a contribution from NHSBSA is required for a Ministerial reply, DHSC will aim to request the contribution to be submitted within 48 hours of receipt of the

correspondence. NHSBSA will aim to provide the contribution within four working days of the request being received. It will set in place appropriate senior clearance arrangements to ensure that the contribution is of a good quality and is returned within the stated deadline.

- 3.22 At all times, DHSC and NHSBSA will aim to comply with their standard deadlines (currently 5 working days) for the end to end process.

MP meeting requests (to DHSC Ministers) to discuss NHSBSA responsibilities

- 3.23 MP requests for meetings are usually sent directly to DHSC ministers. It is normal practice for meeting requests from MPs to be accepted. These requests will continue to be handled by DHSC.
- 3.24 The Minister's private office will consider the request and seek policy advice from NHSBSA via the relevant policy lead and/or sponsor team before responding. DHSC sponsor team/policy lead will contact NHSBSA on the day that the meeting request is received for advice. DHSC will aim to comply with the standard deadline when responding to the MP (currently 5 working days).
- 3.25 NHSBSA is expected to provide well-considered and timely policy advice on whether or not the Minister should accept the meeting request. It will also provide detailed briefing in advance of the meeting to agreed deadlines and, where appropriate, arrange for a relevant senior officer to attend the meeting with the Minister.

MP meeting requests to meet NHSBSA officials

- 3.26 These will be requests from MPs to meet directly with officials from NHSBSA. It is expected that NHSBSA will normally agree to requests from MPs and peers for meetings and that these will be handled without input from DHSC.

4. Public Accountability

- 4.1 This will involve responding to letters and telephone calls from the public, FOI requests and complaints. When DHSC receives letters from the public concerning NHSBSA operational matters, in order to clarify organisational responsibilities and accountabilities, DHSC will respond to the correspondent advising them to contact NHSBSA directly.
- 4.2 DHSC and NHSBSA have agreed that they will give sufficient notice of requests and provide timely responses in order to meet the Whitehall deadline for correspondence and legal deadline for FOI requests (where it is appropriate and necessary for DHSC and NHSBSA to consult each other on FOI requests).
- 4.3 In the event of DHSC responding to an FOI request with information that it considers to be relevant or of interest to NHSBSA, DHSC will inform NHSBSA about the release of that information in sufficient time to prepare appropriate media handling if necessary. NHSBSA will also operate this model.

Public Enquiries

- 4.4 For the purposes of this protocol, public enquiries are telephone enquiries. NHSBSA will be responsible for maintaining its arrangements to answer its public enquiries. It will be expected to set out on its web pages the level of service its callers can expect.
- 4.5 DHSC will signpost clearly any caller who wishes to discuss matters which relate solely to NHSBSA.

Letters and emails from members of the public and stakeholders to NHSBSA

- 4.6 This is correspondence from the public and stakeholders addressed directly to NHSBSA. NHSBSA will respond directly to this correspondence. Where possible, NHSBSA will comply with accepted standard targets (currently 5 working days). It will continue to set out on its web pages the level of service its callers can expect.
- 4.7 If the correspondence covers areas that should rightly be for DHSC to answer, NHSBSA will respond to the correspondence explaining the independence of NHSBSA and signpost them to DHSC. NHSBSA will check with DHSC to ensure that it has re-directed the correspondent correctly.

- 4.8 DHSC will pass on all public correspondence addressed to NHSBSA but delivered erroneously to DHSC's Ministerial Correspondence and Public Enquiries unit within 24 hours of receipt. NHSBSA will put in place similar forwarding arrangements.

Correspondence from members of the public to DHSC or its Ministers about matters that are the operational responsibility of NHSBSA

- 4.9 The Data Protection Act 2018 prevents DHSC from automatically forwarding correspondence. Instead, DHSC will respond to the correspondence it receives, explaining the independence of NHSBSA and signposting the correspondent to NHSBSA. In instances where the correspondence covers both departmental and NHSBSA responsibilities, DHSC will reply with its policy lines and signpost the correspondent to NHSBSA for all matters pertaining to NHSBSA. At all times, DHSC will aim to comply with the standard target (currently 5 working days).

FOI and Data Protection (DP) requests direct to NHS BSA

- 4.10 NHSBSA will respond to all FOI and Subject Access and other Data Protection Requests submitted to it. As a public authority, NHSBSA has a legal obligation to provide information in response to these requests and will be required to have in place an approved publication scheme and restricted access to personal data. Under Data Protection legislation and the FOI Act, information is 'held' by a public authority. If it is held by that authority, or by another person or organisation on behalf of that authority, NHSBSA will also have a duty under the Act to provide advice and assistance to people who have made, or propose to make, information requests to the organisation.
- 4.11 Quantitative and qualitative records about FOI and DP requests received and answered should be maintained by NHSBSA and it may wish to publish some of this information on its external website.
- 4.12 DHSC will pass on all DP and FOI correspondence addressed to NHSBSA but delivered in error to DHSC's central correspondence unit within 24 hours of receipt.
- 4.13 Although NHSBSA must independently handle DP and FOI requests as a separate organisation, DHSC's DP and FOI teams will provide informal, impartial advice on relevant legislation and duties. However, the decision as to whether a request falls under a relevant exemption or not will still rest with NHSBSA.

- 4.14 NHSBSA will make its own arrangements for receiving formal legal advice on SAR and FOI handling.
- 4.15 NHSBSA will have a nominated “qualified person” in the event of NHSBSA invoking a Section 36 exemption.

FOI/DP requests about NHSBSA via DHSC

- 4.16 FOI requests to DHSC about NHSBSA will be assessed on the basis of whether DHSC holds the information at the time of the request. The standard rules of FOI compliance will apply.
- 4.17 If DHSC holds the information and considers that it does not fall within the scope of an FOI exemption, DHSC will be minded to release the information and close down the case.
- 4.18 If DHSC does not hold the information – but judges that it may be in NHSBSA’s possession – under the FOI Act’s duty to assist and advise, DHSC will advise the applicant to contact NHSBSA (giving full contact details) and close down the case.
- 4.19 Similarly, if DHSC receives a request under the DPA for access to personal data, or a request to stop processing personal data and we hold the data, we will respond to the request. If DHSC does not hold the data DHSC will advise the applicant to contact NHSBSA.
- 4.20 There will be no onward referral of DPA or FOI cases to or from either organisation. NHSBSA, as a public authority, has appointed a Data Protection Officer under GDPR requirements.
- 4.21 Papers of a Previous Administration - in the event of handling an FOI request that relates to Papers of a Previous Administration, NHSBSA will follow the guidance set out in the Permanent Secretary’s letter to all ALBs on 11 October 2013 and Ministry of Justice guidance.

5. Complaints and Whistleblowing

Complaints and Whistleblowing Correspondence received by DHSC about NHSBSA

- 5.1 DHSC has established arrangements in place for processing the complaints and whistleblowing correspondence it receives about NHS and social care providers and DHSC ALBs. It identifies this type of correspondence within 24 hours of receipt and grades them according to their severity. When DHSC receives serious complaints that need immediate action to protect a person's welfare, it will contact the appropriate organisation to seek immediate intervention. DHSC will refer anonymised information about whistleblowing cases and the most serious complaints to the appropriate regulatory authority, such as the Care Quality Commission.
- 5.2 For all complaints, DHSC will direct the correspondent to the appropriate complaints mechanism.
- 5.3 If serious concerns are raised about the way in which NHSBSA is running its operations (e.g. allegations of fraud, governance concerns etc), these will be handled by the sponsor team.
- 5.4 At all times DHSC will comply with the Data Protection Act, in doing so DHSC will do its utmost to protect an individual's identity. However, it should be acknowledged that in some cases, due to the nature of the allegations, this may not be possible.

Complaints and Whistleblowing correspondence received by NHSBSA about NHSBSA

- 5.5 NHS BSA will have robust policies and processes in place for whistleblowing correspondence and the processing of complaints it receives about NHSBSA or its staff from service users, or members of the public that are addressed to NHSBSA or to named officers working there.
- 5.6 NHSBSA will follow best practice in responding to complaints, as laid down in the [Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling](#).

Complaints and whistleblowing received by NHSBSA about the health and social care system

- 5.7 If NHSBSA receives a complaint or whistleblowing case about NHS services, or any other part of the health and care system, it will respond (for urgent or serious cases) and/or refer it appropriately (eg: to CQC, NHS TDA, professional regulator).
- 5.8 Records should be maintained, and appropriate reports provided to relevant regulatory authorities to inform on-going monitoring and quality improvement.

Annex A: Public and Parliamentary Contacts

DHSC Contacts

Ministerial Correspondence and Public Enquiries

Area	Name	Email	Tel
Parliamentary Questions (PQs)	Katy Dyer, Deputy Parliamentary Clerk - PQs	Katy.Dyer@dhsc.gov.uk	020 7210 5397
Questions from Private Office (POs) and Departmental E-mails (DEs)	Rosalind Hermanstein - Senior Correspondence Manager	Rosalind.Hermanstein@dhsc.gov.uk	020 7210 5535
Freedom of Information	Jane Earl, Head of FOI	Jane.Earl@dhsc.gov.uk freedomofinformation@dhsc.gov.uk	020 7972 2306
Data Protection	George Menzies, Data Protection Officer and Head of Information and Security	George.Menzies@dhsc.gov.uk ; data_protection@dhsc.gov.uk	0113 254 5206

NHSBSA Sponsor Team

Area	Name	Email	Tel
NHS BSA Sponsorship Lead	Nigel Zaman	Nigel.zaman@dhsc.gov.uk	T: 0113 2546331 M: 07884473209
NHS BSA Sponsorship Team	Lucy Horgan	Lucy.horgan@dhsc.gov.uk	T: 0113 2545015 M: 07799894817
NHS BSA Sponsorship Team	Jo Hindmarsh	Joanne.hindmarsh@dhsc.gov.uk	T: 0113 2546079 M: 07770543292

NHS Business Service Authority Contacts

Management Lead

Name	Role	Email	Tel
Mark Dibble	Executive Director of People and Corporate Services (Corporate Secretary & SIRO)	mark.dibble@nhs.net	T: 0191 244 6468 M: 07500 881050

NHSBSA Parliamentary and Briefing Team

Name	Role	Email	Tel
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Alyx Wintrip	Governance and Assurance Manager	alyx.wintrip@nhs.net	T: 0191 244 6995 M: 07885 799067
Miranda Sykes	Head of Communications and Marketing	miranda.sykes1@nhs.net General mailbox: nhsbsa.communications.team@nhs.net	T: 0191 279 0581 M: 07771 387619
Carol Little	Data Governance Lead	carollittle@nhs.net	T: 0191 203 5886
Katie Teasdale	Data Governance Specialist	katie.teasdale1@nhs.net	T: 0191 244 6938
Chris Gooday	Data Protection Officer and Freedom of Information Officer	chris.gooday@nhs.net	T: 0191 203 5351
Helen Robson	Customer Resolutions Manager	helenrobson1@nhs.net General mailbox: nhsbsa.crt@nhs.net	T: 0191 203 5096 General telephone: 0300 330 1239

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