Monitor
Independent Regulator
of NHS Foundation Trusts

DH Department of Health

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The attached document outlines the roles and responsibilities of those involved in prospective NHS foundation trust private finance initiative (PFI) schemes. Monitor and the Department of Health have worked together to produce this advice, which relates to NHS foundation trusts but not other NHS organisations.

Ultimately, it is the role of the NHS foundation trust's board of directors to decide whether to approve or reject a PFI proposal after due consideration of the implications for their trust.

If you have any questions relating to Monitor's role in relation to NHS foundation trust PFI schemes, do contact Stephen Hay, Monitor's Chief Operating Officer, by email: stephen.hay@monitor-nhsft.gov.uk

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Roles and responsibilities in the approval of NHS foundation trust PFI schemes

This document sets out the roles and responsibilities of those involved in prospective NHS foundation trust private finance initiative (PFI) schemes.

The key parties in a PFI transaction involving an NHS foundation trust are:

(i) strategic health authorities/primary care trusts;
(ii) NHS foundation trust boards of directors;
(iii) Monitor;
(iv) Department of Health; and
(v) HM Treasury.

Ultimately, it is the role of the NHS foundation trust board of directors to approve or reject the proposal. More detail on their role, and that of other parties, is set out below.

Strategic health authorities/ primary care trusts	The key role played by the SHA and PCTs will be to confirm that they want the services proposed by the NHS foundation trust in the planned geographical location and that the activity levels proposed in the PFI business case are realistic. Without such confirmation, the income assumptions can not be supported and the project would not be viable.
NHS foundation trust boards of directors	The role of the NHS foundation trust (NHSFT) board of directors is ultimately to approve or reject the proposal. We would expect an NHSFT board to treat a PFI scheme in the same way as any other major investment. Monitor has issued detailed best practice advice on appraising major investments in its publication *Risk Evaluations for Investment Decisions by NHS Foundation Trusts.* Further, Monitor consulted on some important changes about how major investments will be dealt with. These are set out in the revised *Compliance Framework* published in April 2007. PFI schemes will be covered by the proposals for major investments and NHSFT boards will be expected to comply with immediate effect.
Monitor	Monitor's role is to review proposals for major investments and to ensure that the financial viability of the NHSFT will not be undermined if the transaction proceeds. In carrying out such a review Monitor will not approve or reject the scheme. That is the role of the board of the NHSFT. Monitor does expect the board, however, to take into consideration the findings of the Monitor review and the likely impact on

	the published financial risk rating (FRR) if the scheme were to go ahead. Monitor's role will be to calculate an FRR for the first two years in which the full unitary payment is payable by the NHSFT. The FRR will be calculated under both the base case scenario and a reasonable downside case. Where the FRR for either case is 1 or 2 in either of those years, Monitor would not expect the NHSFT board to approve the scheme. In any event, taken together with the fact that Department of Health (DH) will not provide a Deed of Safeguard (see below) for schemes with a FRR of 1 or 2, it means schemes so rated will not be able to progress. In calculating the FRR, Monitor will review the key revenue and cost assumptions used in the financial projections. These key assumptions will be stress tested through sensitivity analysis in calculating the FRR. In concluding on financial assumptions Monitor would expect to discuss activity assumptions with the NHSFT and PCT. All other key assumptions would be the subject of discussion between Monitor, the NHSFT and the DH.
Department of Health and HM Treasury	The DH's guidance *New Delegated Limits for Capital Investment* (June 2003) is not applicable to NHSFTs. However, the DH and HMT have a key role to play where a Deed of Safeguard is required. This is currently the case for the majority of PFI transactions since without the Deed of Safeguard there would be no commercial deal. As above, where the FRR is either 1 or 2 the DH or HMT will not issue a Deed of Safeguard. For the purpose of the issue of the Deed of Safeguard, the DH and HMT have set out their requirements. This includes adherence to the standard PFI contract; specified funding structures; payment mechanisms; the requisite level of due diligence before approval can be granted and a duly approved full business case (FBC). The precise requirements are available from the DH's PFU.
Sequence	The sequence of reviews is as follows: 1. Agree service proposals and activity levels with PCTs/SHA. 2. Monitor's review and FRR. 3. Deed of Safeguard review by DH/HMT
Timing	This note takes immediate effect

** Note 1: private sector parties and advisors are excluded from this list on the assumption that their involvement is clearly understood and unlikely to change in the future.*
Note 2: HMT and DH require FBCs for all public capital schemes of £100m or more.