

Annex 1: Policy breaches

Table 1: Breaches of consultancy policy

Description	Total spend	Comments
Transformation Nous	£1.7m	Incomplete business case was submitted to NHSI, with significant subsequent delays in making the necessary improvements. Trust progressed work without formal approval. Based on our understanding, trust is in breach of OJEU procurement regulations as direct award was made, value is above OJEU thresholds, and firm is off framework. Trust board has not approved the single tender waiver, a breach of its policies.
PwC - ED analytics	£105k	No explanation for failure to follow rules
PwC - D&C model	£83k	Trust thought no approval required: This was a shared expense with the commissioner and the trust's portion of payment was below the £50k threshold for approval. However, as the total amount spent on the project was over £50k and the trust was the contracting party, the trust should have sought approval from NHSI.
Capita	£75k	Initial contract was for under £50k. The work was later extended without following due process in terms of submitting a business case.

Table 2: Breaches of interim VSM policy

Description	Comments
Chair of Improvement Board	Trust paid invoices on behalf of A&E Delivery Board and made the appointment on NHSI's advice, but the trust was the contracting party. Our view is that this does not fit the definition of consultancy spend ² and that policy is therefore not applicable in this case. The rate of pay was above £750 per day and approval should have been sought. Payment through a limited company does not change this requirement.
Honest Partners	Our view is that this work did not fit the definition of consultancy spend ² (although such approval was not sought in any case despite total spend above £50k). The rate of pay was above £750 per day and approval should have been sought. There appeared to be confusion at the trust on whether the day rate quoted was per person or for two people. This should have been clarified in advance of the work starting.

² The trust has tended to consider whether the role would otherwise be filled substantively as a test for whether the VSM policies would apply. A more appropriate test is the extent to which the individual or company bears risk. If the contract specifies a deliverable that must be produced or outcome that must be delivered for payment to be made, then the consultancy policy is more likely to apply. This did not appear to be the case for the two instances identified above.