

15 March 2018

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Rt Hon Meg Hillier MP
Chair, Public Accounts Committee
House of Commons
Westminster

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Dear Ms Hillier

Supplementary evidence to session on 05 March 2018 - subsidiary companies in the NHS

At the recent evidence session held on Financial Sustainability and Transformation in the NHS I undertook to write to you to provide further information on subsidiary companies in the NHS.

Both NHS foundation trusts and NHS trusts have power to establish companies for income generation purposes. There are many such examples and this policy has not in the past been controversial.

NHS foundation trusts also have a wider power to establish and participate in companies for purposes connected to their functions. That power is long established (2006 legislation), and has been used, for example, in relation to the delivery of pathology services. NHS Improvement does not currently have any specific oversight in that regard: in the past this wider power has been considered to be one of the foundation trust "freedoms".

Over the past six months we have seen a number of new models developing, the key features are:

- 1) proposed changes to the delivery of back-office functions
- 2) increased opportunities for income generation from the commercialisation of certain "non-core" NHS Functions (for example the local sample delivery contracts being delivered by QE Facilities, a wholly owned subsidiary company of Gateshead Health NHS Foundation Trust)
- 3) anticipated efficiencies flowing from the potential for employing new staff on revised (non-Agenda for Change) terms and conditions.

While it is understood that VAT savings can also be made by NHS Trusts going down this route, these savings should always be a by-product of the other commercial or operational reasons for setting up subsidiary companies. The Department of Health & Social Care wrote to all NHS provider Trust finance directors in September last year reminding them of their responsibilities in regards to tax and that they should not enter into tax avoidance arrangements under any circumstances. That letter should be referred to by NHS Trusts when considering these arrangements. Where cases of tax avoidance by NHS Bodies are suspected, the Trust in question will be asked to explain their actions and account for them to HMRC if deemed appropriate.

As a result of these new models developing, NHS Improvement's Resources Committee has asked for some work to be undertaken to look again at the question of oversight to ensure we are striking the right balance between regulation and the freedom foundation trusts have. Currently, NHS Improvement asks foundation trusts to tell us how many subsidiaries have been consolidated into their accounts. The most recent figures that we have, which are from 31 March 2017, reveal that there are 42 subsidiary companies consolidated into the accounts of foundation trusts. NHS trusts have not been required to provide NHS Improvement with information relating to subsidiary companies until the current financial year so we do not yet hold information on the number of subsidiary organisations in the trust sector.

I appreciate the interest of the Committee and will be pleased to provide an update on any revision of oversight arrangements either through formal Treasury Minutes or directly to you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Dalton', written in a cursive style.

Ian Dalton CBE

Chief Executive, NHS Improvement