



National Audit Office

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Helping the nation spend wisely

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Dear Meg

MINISTERIAL DIRECTION

I am writing to formally notify you of a Ministerial Direction sent following the dissolution of Parliament by Matt Hancock, the Secretary of State for Health and Social Care, to Sir Simon Stevens, the Chief Executive of NHS England and Improvement, regarding payments for NHS clinicians' pension tax liabilities.

Sir Simon Stevens wrote to Matt Hancock on 18 November 2019 seeking a Ministerial Direction to implement a scheme whereby the NHS would meet any pension-related tax liabilities created by clinicians undertaking additional duties to help the NHS meet demand over winter. His letter and the Secretary of State's reply on 22 November 2019, providing this Direction, were sent to my office as required under Managing Public Money (MPM).

Sir Simon considered that this arrangement required a Direction because it could be viewed by HMRC to constitute tax avoidance and MPM specifically states that 'public sector organisations should not engage in, or connive at, tax evasion, tax avoidance or tax planning'.

Whilst the Ministerial Direction gives the Accounting Officers permission to undertake payments, it does not in itself 'regularise' the action. I will therefore need consider the implications of such spending on my opinion on the relevant health financial accounts.

The Direction is for England only, but the Welsh Minister for Health has issued a similar direction in respect of pension payments for NHS clinicians in Wales. The Welsh Assembly Committee of Public Accounts held a hearing on Monday 3 February to examine these arrangements and we are working closely with colleagues in the Wales Audit Office on this matter.

I have asked Mike Newbury and Robert White, my Directors of Financial Audit and Value for Money Audit for the Department of Health and Social Care, to undertake some further work on this topic and they are liaising with officials at NHS England and Improvement and the Department. There has been a delay in providing us with the information we requested as senior officials are currently engaged in managing the response to the coronavirus, but I expect to be able to commence this work very shortly.

I will write to you again once this work has been concluded. I would of course be happy to discuss this when we meet next meet.

*Yours,
Gareth*

GARETH DAVIES