

Thirty-Fifth Report of Session 2021-22

Department of Health & Social Care, Crown Commercial Service, Cabinet Office, and HM Treasury

The Pharmacy Earlier Payment and Salary Advance Schemes in the NHS

Introduction from the Committee

Greensill Capital was involved in the provision of two schemes to the NHS—first, supply chain finance—with particular focus on the Pharmacy Earlier Payment Scheme (PEPS) to pharmacy contractors; and second, the Employer Salary Advance Scheme which allowed NHS employees to access their earned salaries in advance of payday. PEPS was introduced by the Department of Health & Social Care in 2013 in order to improve cashflow to community pharmacies for the reimbursement of dispensing NHS prescriptions. Prior to 2013, community pharmacies were reimbursed up to two months in arrears for dispensing NHS prescriptions. Taulia and its subcontractor Greensill Capital, were appointed to run the early payment to pharmacies from April 2018 and continued to do so until Greensill Capital's collapse in March 2021. Greensill Capital marketed its salary advance scheme, Earnd, to NHS trusts from 2019 and charged no fee to employers and employees for using the service

Based on a report by the National Audit Office, the Committee took evidence on Monday 15th November 2021 from the Department of Health and Social Care; Crown Commercial Service; NHS Business Service Authority and NHS Shared Business Services Limited. The Committee published its report on 4 February 2022. This is the government's response to the Committee's report.

Relevant reports

- NAO report: [Investigation into supply chain finance in the NHS](#) – Session 2021-22 (HC 734)
- PAC report: [The pharmacy early payment and salary advance schemes in the NHS](#) – Session 2021-22 (HC 745)

Government response to the Committee

1: PAC conclusion: There is no evidence that the predicted benefits and savings from introducing supply chain finance into pharmacy reimbursement processes were realised.

1: PAC recommendation: The HM Treasury letter to accounting officers (DAO 02/19) providing guidance on novel financing arrangements should be reissued and updated to note that supply chain finance does not provide benefits to the taxpayer, and that these kinds of schemes should not be considered or implemented in the future.

1.1 The government agrees with the Committee's recommendation.

Recommendation implemented

1.2 In June 2019, HMT published DAO 02/19, which provided guidance to Accounting Officers in respect of novel and complex financing arrangements.

1.3 Following the Committee's recommendation, on 18 March 2022 HMT reissued an updated version of DAO 02/19 ([DAO 03/22](#)). This reissued DAO reiterates accounting officers' responsibilities in respect of such schemes and sets out the Committee's recommendation.

2: PAC conclusion: Crown Commercial Service (CCS) failed to sufficiently manage and consider conflicts of interest for the appointment of contractors.

2: PAC recommendation: The Department and CCS should formalise the process for considering conflicts of interest, to ensure that actual and perceived conflicts of interest are managed appropriately.

2.1 The government agrees with the Committee's recommendation.

Recommendation implemented

2.2 In 2020, the National Audit Office and the Boardman Review recommended that additional, practical guidance be made available for all in-scope organisations regarding the management of conflicts of interest in commercial environments. As a result, on 20 May 2021, the Cabinet Office published [Procurement Policy Notice \(PPN\) 04/2021](#) covering the issue of conflicts of interest in awarding contracts and interpretation of the relevant exclusion provisions where contractors commit certain breaches.

2.3 The Crown Commercial Service (CCS) ensures that their framework procurement process considers conflicts of interest and has recently carried out checks to ensure that each stage of it fully complies with PPN 04/2021; this includes updating the templates it uses as part of the framework procurement evaluation process. This is to ensure contemporaneous confirmation is explicitly sought and captured that CCS teams and other interested parties in the procurement have considered and declared any perceived or actual conflicts of interest.

2.4 The Department of Health and Social Care (the department) has completed its implementation of the PPN 04/2021. It has introduced a clear process to ensure that conflicts of interest are considered at appropriate stages of the procurement lifecycle, which includes a review of the declaration forms in line with the PPN.

2.5 As part of the annual contract management assurance process for 2022-23, the department will ensure that all of its contract managers (officials) routinely complete a conflicts of interest declaration during their involvement in managing contracts. All contractors working for the department are required to complete the conflicts of interest form.

3: PAC conclusion: Despite previous experience of contractor failures, CCS and the Department did not act on lessons from previous cases.

3: PAC recommendation: The Department and CCS should establish a cohesive and robust methodology for assessing suppliers' risk profiles and resilience and develop steps to improve information sharing between the two organisations and across government. Procedures should include processes for assessing contractors' financial viability; potential to deliver the required goods and services; and that assessments are reviewed at appropriate intervals, such as when contractual arrangements are revised.

3.1 The government agrees with the Committee's recommendation.

Recommendation implemented

3.2 Suppliers bidding for CCS contracts are subject to robust financial checks as part of each framework procurement. CCS teams also then regularly monitor risk to suppliers and

consider their resilience during the life of the contract, making use of media and market reports and other intelligence. Based on emerging information on Greensill Limited, CCS opened discussions with Taulia about identifying an alternative funder for Supplier Earlier Payment Solutions prior to Greensill Limited's collapse and engaged with NHS Business Services Authority. CCS and the Cabinet Office Commercial Central teams have well-established links across the Government Commercial Function (GCF), to ensure robust information sharing on key suppliers.

3.3 In line with GCF recommended practice, the department classifies all contracts and suppliers using a tiering approach which assesses contracts as Bronze, Silver and Gold based on risk, value and criticality (for example, from low risk to high risk). This assessment of the contract determines the extent of mitigations to be put in place. The impact of a failure in service continuity on service users and the department must also be considered.

3.4 On the award of a contract, the frequency of checking on the financial health and viability of a supplier is driven by this contract risk tiering approach as well as the assessed risk of failure regarding a supplier. Where the department is contracting with strategic suppliers to the government as a whole, the relevant officials engage with the Markets and Suppliers team in the Cabinet Office, which provides the overall financial health checks for these suppliers. For other important suppliers to the department, commercial officials undertake the financial risk assessments throughout the contract life.

4: PAC conclusion: The Department failed to provide adequate oversight to its arm's length bodies (ALBs) and NHS trusts.

4a PAC recommendation: The Department, working with NHSE&I, should adopt a formal process for ensuring that government advice is disseminated to NHS trust leadership for consideration and implementation if relevant.

4.1 The government agrees with the Committee's recommendation

Recommendation implemented

4.2 The Public Contract Regulations apply to all public sector contracting authorities, including NHS Trusts and Foundation Trusts. The Cabinet Office formulates public procurement policy and disseminates policy advice to the public sector through a process involving the publication of Procurement Policy Notices, such as [PPN 04/2021](#), on GOV.UK. NHS England & Improvement's (NHSE&I) Chief Commercial Officer is a member of the GCF which is a part of the Cabinet Office. However, as NHS Trusts and Foundation Trusts are independent legal entities and not Arm's Length Bodies (ALBs) of the department, it would not be normal practice to disseminate advice aimed at government departments and ALBs to the NHS where it is not operationally relevant; for example, the salary advanced scheme guidance, as this was not aimed at staff on NHS terms and conditions.

4.3 NHSE&I has a process for disseminating relevant government advice to NHS trusts. Relevant updates are included, for example, in their twice-weekly Healthcare Leaders Bulletin which brings together important updates for the NHS colleagues – this includes relevant updates from the department, other partners and stakeholders. NHSE&I also has a formal route to system leaders through its Single Point of Contact team – this route is only used for items requiring immediate attention, to ensure it is not overburdening the system with multiple separate communications.

4b: PAC recommendation: The plan should also include a protocol for ensuring that the NHS logo or brand is not exploited or used by unauthorised individuals or companies and that the staff code of practice includes a protocol for personal endorsements.

4.4 The government agrees with the Committee's recommendation.

Target implementation date: May 2022

4.5 The department has a policy in place for use of the NHS brand. Third parties require a licence from the department, and these are only granted where certain criteria are met. The department will, however, make it clear that NHS staff are not permitted to endorse a third party by updating the NHS Identity Guidelines website with the following:

"The NHS or the Department of Health and Social Care (DHSC) cannot endorse or be seen as endorsing third party goods or services, regardless of if the third party has provided goods and services to the NHS or DHSC. Similarly, NHS staff members are not permitted to use their status as an NHS employee to endorse a third party in a private or professional capacity. Please refer to the NHS Identity principles."

4.6 NHSE&I support this change and NHS organisations are contractually bound by the NHS Standard Contract to follow the identity guidelines.

5: PAC conclusion: The growth in salary advance schemes across the NHS raises questions about their status as unregulated consumer lending

5: PAC recommendation: The Department along with HM Treasury, should work with the FCA to consider, as a matter of urgency, what measures and regulation can be applied to salary advance schemes to enforce the adoption of a code of good practice by scheme providers and employers

5.1 The government disagrees with the Committee's recommendation

5.2 Unsecured consumer credit is regulated under a legislative framework. Where consumer detriment is identified, the government is able to extend the perimeter of that framework to ensure that there is appropriate consumer protection. For example, the government is currently looking to extend regulation to cover interest-free credit agreements under 12 months and repayable in 12 or fewer payments. However, salary advance schemes generally operate entirely outside of credit regulation as the early payment of accrued wages does not usually involve the provision of credit. The government has also not seen substantive evidence of consumer detriment arising from the use of salary advance schemes. It has instead observed that these schemes can provide a useful tool to help people manage their finances, for example meeting unexpected costs or helping to manage the payment of larger one-off purchases. The government's assessment is therefore that these schemes do not merit regulation, which would impose costs on the providers and would likely be reflected in the costs to consumers.

5.3 The government understands that firms offering salary advance schemes are developing an industry code of practice. The government welcomes this development and, alongside the FCA, is engaging with the industry as the code develops and will consider if any further interventions are needed in the event of any signs of consumer detriment.