Department of Health & Social Care

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Dame Meg Hillier MP
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Sent via email to: pubaccom@parliament.uk

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Dear Chair,

Public Accounts Committee hearing: Department for Health and Social Care's Annual Report and Accounts 2022-23

During the Public Accounts Committee hearing on 13 March 2024, the Department agreed to write to the Committee with several updates which I have set out below. A separate confidential update on the Department's PPE dissolution programme is being shared separately with the Committee.

Capital to revenue transfer in 2022-23

Prior to the main session on the accounts for financial year 22-23, the Committee asked the department to confirm whether a recent article from HSJ, claiming that £1bn had been taken from capital budgets to fund the ongoing industrial action, was true. I agreed to provide confirmation to the Committee on this point.

The department transferred £0.9bn from the capital budget (CDEL) to the resource budget (RDEL) in financial year 23-24. This was due to underspends in the capital budget arising from slower than planned delivery. Of the £0.9bn capital underspend, this was transferred to resource budgets mainly comprising of: i) 0.5bn for NHS Pay and NHS Industrial Action, ii) £0.3bn for NHS technology and iii) £0.1bn for New Hospitals Programme. Further details on this can be found in the DHSC Estimates Memorandum 2023-24 Supplementary Estimates.

NHS Continuing Healthcare

Prior to the main session, the Committee also questioned the department and NHSE on NHS Continuing Healthcare (NHS CHC), specifically relating to funding in light of recent news articles. Eligibility for NHS CHC is not determined by age, diagnosis or condition, or financial means, it is assessed on a case-by-case basis taking into account the totality of an individual's needs. Integrated Care Boards (ICBs) are responsible for decisions about NHS CHC eligibility

in accordance with the Government's National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care. When an individual is assessed as eligible for NHS CHC, the NHS is responsible for funding the full package of health and social care.

ICB spend on NHS all-age continuing care (which covers both children and adults) in 2022-23 (the latest audited figures) was circa £6bn which is an increase of £1.5 bn (c.32%) from 2018-19. The increase in spend is linked to demographic shifts with individuals living longer with multiple co-morbidities and requiring complex high value care packages. Additionally, financial pressures and inflationary impact, as well as other contributing factors such as the increase in National Living Wage and workforce costs are adding to pressures. Current forecast expenditure for 2023-24 (subject to review and change before year end and audit) suggests that spend continues to grow further to a circa 50% increase on 2018-19. NHS England is reviewing and considering a number of financial interventions in 2024-25 to understand and address unwarranted cost pressures, recognising the need to ensure continued fair access to patients. These interventions will have a limited impact on the overall increases required due to the reasons set out above.

NHS England allocates funding to ICBs to meet the costs of providing healthcare including NHS CHC which takes into consideration attributes of its local population to assess the level of need. It is for individual ICBs to decide how best to use their allocation to deliver their commissioning functions. However, NHS England is clear that any work to manage cost pressures does not impact on an individual's eligibility for NHS CHC, or their care and we are committed to ensuring that everyone who may be eligible for NHS CHC is assessed and, if eligible, receives an appropriate package of care to meet their assessed health and care needs.

Disposals of surplus Covid-19 medical equipment, including ventilators

In discussions around Covid-19 inventory, the Committee asked for an update on how surplus medical equipment from the pandemic, specifically ventilators, have been disposed of. The Covid strategic ICU reserve was set up in April 2020 as part of the UK's pandemic response. Separate to stockpiles for PPE, medicines and the Nightingale hospitals, the reserve contained essential adult respiratory equipment including mechanical and non-invasive ventilators, oxygen concentrators, patient monitors, suction pumps and syringe drivers.

The stockpile has been managed by the Department since 2020, with logistics and warehousing provided via NHS Supply Chain. The equipment held in the stockpile has been available to the NHS across the United Kingdom, at zero cost. The Department has worked with the NHS in England and the devolved administrations to regularly share information on what was available from the stockpile. However, no restrictions have been placed on individual NHS organisations regarding the purchasing of medical equipment.

Since 2020, around 83,000 devices have been issued to the NHS across the UK, with a further 331 sent to Crown Dependencies and Overseas Territories.

In light of significantly reduced demand from the NHS, and the ongoing costs of storing and maintaining ageing equipment, in June 2023 Ministers agreed that the stockpile should close by March 2024, having maintained a core holding equivalent to 1,000 ICU beds during winter 2023-24. Peak ventilator bed occupancy was seen in January 2021, with 3,700 ventilator beds occupied by Covid patients. Between October 2022 and March 2023, the number of Covid patients requiring ventilation never exceeded 232.

The Department has used a graduated approach to disposing of equipment from the stockpile:

- **Deployment into the NHS across the UK:** provided free of charge.
- **Supplier buy-back:** offered to original supplier at an agreed price.
- **Donation:** either in support of UK NHS training or as international humanitarian aid.
- **Auction:** sold via a specialist medical equipment auction partner on the open market.

All of these options allow, even at low or no return, the devices to go to a use where it is valued rather than to go for destruction, and allows the Department to avoid storage, maintenance and disposal costs. However, as much of the equipment in the stockpile is now over three years old, its attractiveness as either a donation or a sale, even a discounted one, has continued to fall. To date, auctions and buybacks have raised c. £2.7m of income and further reduced the Department's storage and disposal costs. Auctions of medical equipment are expected to be completed by May 2024.

Just over 4,400 pieces of equipment have been donated as international aid including packages to Peru, India, Zimbabwe, Nepal and Ukraine. Requests for humanitarian aid from Turkey, Syria and Gaza did not include items held in the stockpile.

Equipment that was not able to be donated or sold, including those devices no longer regulated or restricted in use, has been sent for disassembly, maximising recycling and utilising energy recovery where recycling is not possible. No items have been sent to landfill.

Disposal activity began in summer 2023, following the decision to close the stockpile, although items have been issued to the NHS and included in overseas donations since 2020. As of 11 March 2024, around 4,000 items remain in the stockpile, with disposal activity expected to be complete in early April 2024.

Disposals of equipment used in the Nightingale Hospital Programme

In further discussion relating to Covid-19 inventory, the Department also committed to provide an update on the disposal of equipment used as part of the Nightingale hospitals programme.

In July 2022 circa 15,000 pallets of stock from Nightingale hospitals was being held in storage, together with circa 10,000 pallets of stock from Covid-19 vaccination services. At this time, the stock was confirmed as no longer needed as a central store since the emergency phase of Covid-19 response had passed, and significant storage costs were being incurred. Consequently, a process of redistribution was commenced.

Approximately half of the stock was redistributed across public services, with a majority being requested by NHS organisations and a small number being sent to other government departments and devolved administrations. The redistribution arrangements, agreed by NHSE's Commercial Executive Group and a joint Covid-19 NHSE / DHSC Finance board, prioritised redeployment within the NHS and other public services across the UK, and sought to deliver value for money in redeploying useful items and minimising consequential costs such as storage and transport.

Owing to the nature of the pandemic and initial requirement to urgently source a range of items in preparation for all potential scenarios, some items purchased were not clinically suitable for routine NHS use – including circa 6,000 beds. As items were returned from the Nightingale hospitals on their closure, it was therefore not possible to redeploy all this equipment across the NHS, but we continued to incur significant storage costs. Once redeployment options were

exhausted, residual items were sent to auction via a DHSC contract generating income of £410k and eliminating any further storage costs.

Circa 5,400 pallets of stock were recycled including expired stock (alcohol wipes etc) and items that had been returned damaged from operational use in providers.

Local Audit fees

During a discussion relating to the timeliness of local audit, the Committee asked for more information on the change in local audit fees. The below table shows these changes from 2018-19 through to 2022-23.

NHS Providers (Trusts and Foundation Trusts)

	2018-19	2019-20	2020-21	2021-22	2022-23[1]
Average statutory audit fee (based on total fees for the sector divided by number of entities) - £'000	71	78	104	122	149
% change year-on-year		9%	33%	18%	22%
% change since 2018-19		9%	45%	71%	108%

NHS England (Clinical Commissioning Groups and Integrated Care Boards)

	2018-19	2019-20	2020-21	2021-22	2022-23[1,2]
Average statutory audit fee (based on total fees for the sector divided by number of entities) - £'000	53	54	79	103	133
% change year-on-year		2%	47%	30%	29%
% change since 2018-19		2%	50%	96%	152%

[1] *Additional audit work required in all entities in 2022-23 due to the implementation of the new leases accounting standard (IFRS 16)*

[2] *NHS England fees for 2022-23 reflect 3 months for CCGs and 9 months for ICBs*

Clinical Negligence

In discussions towards the end of the hearing on clinical negligence, the Department committed to providing an update on both the trend on clinical negligence claims as well as ongoing work to reduce costs associated with the management of the process. I have set further detail on these below.

According to NHS Resolution (NHSR), which manages clinical negligence and other claims against the NHS in England, the total number of new clinical negligence claims and reported incidents totalled 13,511 in 2022-23, a decrease of 1,567 (10.4%) on 2021-22 (15,078).

This total figure includes:

- 341 more Clinical Negligence Scheme for Trusts (CNST) claims (10,567 in 2022/23 compared to 10,226 in 2021-22), an increase of 3.3% compared to 2021-22;

- 2,583 fewer Existing Liabilities Scheme for General Practice (ELSGP) claims (709 in 2022-23 compared to 3,292 in 2021-22), a decrease of 78% compared to 2021-22 due to the bulk migration of responsibility for claims from the Medical Protection Society (MPS) in 2021-22; and

- 678 more Clinical Negligence Scheme for General Practice (CNSGP) claims (2,180 in 2022-23 compared to 1,502 in 2021-22), an increase of 45% compared to 2021-22.

Putting aside the effect of the bulk migration of existing GP indemnity claims from MPS, the underlying change in clinical claims received (CNST and CNSGP) is an increase of 1,019 claims, or 8.6%. Reported claim numbers for CNST were lower during the acute phases of the Covid-19 pandemic. Despite this 2021-22 – 2022-23 rise, CNST claim numbers remain 1.7% lower than the average of the five years to 2019-20 preceding the pandemic. Rises in CNSGP claims are primarily due to the time-lag between incidents occurring and claims being received for this relatively new and immature scheme, so we would expect to see year-on-year increases for a period.

Long term trend - CNST and maternity claim volumes

Over the longer term, claims in the CNST, the largest scheme for clinical negligence claims managed by NHS Resolution, have been steady at ~11k/year since 2016-17. The volume of the highest-value maternity claims (settled) has steadily fallen since 2006-07. However, though maternity claims accounted for 13% of the volume of clinical negligence claims reported in 2022-23, they represented 64% of the total estimated value of clinical claims reported.

GP indemnity claims

GP claims have been included in NHSR claim data since 2019. However, those claims have transferred from being managed by Medical Defence Organisations to NHS Resolution, following reforms to GP indemnity and the creation of the ELSGP and CNSGP schemes. Their addition does not represent an overall rise in claims in the system.

Over recent years, the Government and the NHS have taken significant steps forward to address the rising costs of clinical negligence and improving patient safety. These include:

- Improving safety and learning in the NHS including through a number of measures being implemented as part of the NHS Patient Safety Strategy, published in 2019, and targeted investment in maternity care;

- Taking steps to implement reforms on Fixed Recoverable Costs (FRC) in lower damages clinical negligence claims, grounded in work led by the Civil Justice Council. In September 2023, the Department published the response to its consultation on proposals to reduce claimant legal costs and fast track resolution for clinical negligence claims up to £25,000. The Department's modelling indicates that introducing these reforms could realise cashflow savings to the NHS in England of c. £500million over a decade. The Department is now engaging with the Civil Procedure Rules Committee on the proposed reforms. The intention is that the legislative changes to implement FRC will be brought into force in October 2024.

- Operational improvements made by NHS Resolution, which manages clinical negligence and other claims against the NHS in England. These have included the Early Notification scheme for certain types of maternity cases; the Maternity Incentive Scheme which provides financial incentives within the Clinical Negligence Scheme for Trusts to improve maternity safety; and analysis of claims for clinical safety issues and dissemination of learning. NHSR has also made progress in resolving claims more quickly by implementing Alternative Dispute Resolution, including increased use of mediation (over 1,200 claims were mediated up to end 2020/21), and this is being developed further under NHSR's 2022-25 strategy. As a result, NHS Resolution is continuing to improve on resolution of claims - in 2022/23, 80 per cent of the 13,499 clinical claims settled were resolved pre-litigation, and only 0.2% went to trial.

- Working intensively across Government to understand all the drivers of cost. This is a complex issue and there are a number of factors driving the rise in costs: we do not believe there is a single or quick fix.

I hope you find this update satisfactory.

A copy of this letter is also being sent to Rt Hon Steve Brine, Chair of the Health and Social Care Committee, Gareth Davies, Comptroller and Auditor General, and to the Treasury Officer of Accounts.

Yours sincerely,

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