

From the Permanent Secretary
Sir Chris Wormald



Department of Health & Social Care

Rt Hon Dame Meg Hillier MP
Chair of Public Accounts Committee
House of Commons
London
SW1A 9NA

39 Victoria Street
London
SW1H 0EU
Permanent.secretary@dhsc.gov.uk

Sent via email to: pubaccom@parliament.uk

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Dear Chair

PAC Accountability Review

On 15 November 2021, I appeared before the Committee and responded to questions from you regarding the Department's PAC accountability procedures and to offer an apology for the Department's and its ALB's problems in fulfilling our responsibilities to the Committee. I committed to undertake a formal review of internal processes and accountability mechanisms to ensure that the Department is fully able to meet its obligations to the Committee. I apologise that this review has been necessary. The unprecedented circumstance of COVID-19 is the primary cause, which has caused intense pressure across the Department and its Arm's-Length Bodies. This is, however, an appropriate point to review and reset, and I am committed to meeting our Parliamentary accountability requirements in future.

As part of the review we have considered the processes, controls and governance we have in place to ensure we meet the timelines and requirements for Treasury Minutes, correspondence, and notification of Contingent Liabilities. We have identified a number of changes which will now be implemented to ensure that we meet our obligations to the Committee in future. This includes streamlining internal processes, strengthened stakeholder management and accountability processes, and enhanced oversight and escalation arrangements.

We have also completed an audit exercise spanning the Department and its Arm's-Length Bodies to ensure our register of current contingent liabilities is fully up to date, and to obtain assurances from the business that we are fully meeting our obligations in relation to Parliamentary notification of contingent liabilities in line with Managing Public Money. The Department's contingent liability register will be reviewed and updated on a regular basis as part of enhanced governance arrangements which are being implemented to ensure we have the appropriate controls and oversight mechanisms in place to avoid any issues in future. A further phase of the audit will now take place to establish whether there are any historic contingent liabilities which have not yet been reported to the Committee.

I will also be writing to all of the Department's Arm's-Length Bodies to set my expectation of improved performance in relation to all aspects of Parliamentary accountability, including ensuring that they are meeting obligations for reporting to the PAC in a timely manner. This will make clear that I will be holding Chief Executives personally accountable for Parliamentary reporting of contingent liabilities. I will be writing on similar terms to the Department's senior leaders. As part of this, we will also be issuing associated guidance across the business and will undertake broader work to ensure that any capability gaps are addressed.

I am also providing an assured overview of time-bound contingent liabilities that have been issued in relation to COVID-19 at **Annex A**, as requested in your letters of 1 November 2021 and 1 December 2021. Finalising this overview was subject to the outcome of the audit described above and I sincerely apologise for the delay in sending it to the Committee. There are 2 areas on which I need to provide an update following our review.

Clinical Negligence in Community Testing Contingent Liability Extension

On 23 December 2020, we wrote to you setting out the Department's approach to contingent liabilities associated with potential clinical negligence claims that could arise in the course of conducting testing by local authorities through Targeted Community Testing. We explained that the Department was offering, through a letter of comfort to local authorities participating in the programme, a route to manage such a liability should it arise. That arrangement was subsequently extended until 30 June 2021 and then 30 September 2021 and the Committee was notified accordingly.

Ministers and HM Treasury agreed a further extension to support local authorities to reduce rates of transmission of COVID-19. This enables local authorities to target and support disproportionately impacted and underserved groups in local communities. The extension started on 1 October 2021 and runs to 31 December 2021. All other features of this contingent liability remain unchanged. I regret that this notification reaches you late and offer my apologies. I am happy to answer any queries and reflect on any observations you have.

A further extension is planned from 1 January 2022 to 31 March 2022. Once the necessary approvals are received, we will be writing to the Committee with details of the extension. I regret that on this occasion we will be unable to provide the full 14 sitting days' notice in advance of the extension due to the Christmas recess and the urgency with which this extension will need to come into effect upon receipt of outstanding approval.

Community Pharmacy Indemnity Support

In your letter dated 1 December 2021 you requested further information regarding the Community Pharmacy Indemnity Support. Indemnity support is being provided to community pharmacies participating in the Covid-19 vaccine programme. At the outset of the programme, this support was state indemnity for any clinical negligence liabilities arising from administration of vaccines. This meant that community pharmacies did not need to purchase commercial insurance for clinical negligence to cover administration of Covid-19 vaccines.

To enable a transition back to business as usual arrangements for pharmacies, and reduce the level of Government support whilst reflecting the particular demands of the vaccination programme, this indemnity support has changed for the next phase of the programme. Instead of covering all clinical negligence liabilities, a reduced state indemnity only covers clinical negligence liabilities above the level of the historical cost of flu vaccination claims. The sector will be responsible for liabilities up to this level, so we refer to this as a 'risk-sharing' arrangement.

This updated arrangement is being delivered via pharmacy insurers, which all have the option to access the indemnity support. Participating insurers cover clinical negligence liability costs for the pharmacies they are insuring up to the level of historical spend on flu vaccine claims, with government taking on the risk above this. This arrangement covers the phase of the vaccination programme which began in September 2021 and mainly comprises booster doses for adults. This arrangement is supporting insurers to offer community pharmacies a commercial insurance product at an affordable price. It has been implemented with insurance providers that cover the majority of the sector and is due to operate until 31 March 2022.

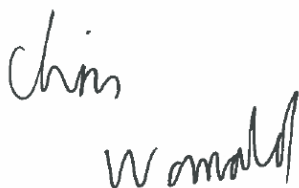
HMT approved these two changes to our approach, both the extension of the state indemnity and the implementation of the risk-sharing arrangement with agreement requested and received in July 2021, neither of which materially change our financial exposure. The lack of notification was a genuine oversight on our part and we fully accept it should not have happened.

Treasury Minutes

Following your earlier request for an update on the status of our Treasury Minutes, I have provided 2 letters of correspondence and 15 Treasury Minutes at **Annex B**.

I am writing in equivalent terms to Jeremy Hunt, Chair of the Health and Social Care Select Committee to provide retrospective notification of the contingent liabilities referred to in this letter. A copy will go to Gareth Davies, Comptroller and Auditor General and to the Treasury Officer of Accounts.

Yours sincerely,

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

SIR CHRIS WORMALD

PERMANENT SECRETARY

Annex A

Time-bound contingent liabilities that have been issued in relation to COVID-19

This table provides a summary of current time-bound contingent liabilities that have been issued in relation to Covid-19 where Parliamentary notification was required.

Contingent Liability	Original period	Previous extensions	Current end date	Future extensions	Future PAC notifications
Clinical Negligence in Community Testing	23 December 2020 to 31 March 2021	1 April 2021 to 30 June 2021 1 July 2021 to 30 September 2021 1 October 2021 to 31 December 2021 (retrospective notification is provided in this letter)	31 December 2021	1 January 2022 to 31 March 2022	Parliamentary notification, including a letter to the PAC, will be provided upon receipt of ministerial approvals.
Clinical Negligence in Community Pharmacy	21 December 2020 to 31 March 2021	1 April 2021 to 31 August 2021 1 September 2021 to 31 October (further extension of the state indemnity) 1 October 2021 to 31 March 2022 (introduction of the risk sharing arrangement).	31 March 2022	Not currently anticipated. However, this is linked to the ongoing pandemic response and remains under close review.	Not required.
Designated Settings Indemnity Support	18 January 2021 to 31 March 2021	1 April 2021 to 30 September 2021 1 October 2021 to 31 March 2022	31 March 2022	Not currently anticipated.	Not required.

Annex B

Treasury Minute Update Reports

The following Treasury Minute Update Reports are appended to this letter:

1. Mental Health in Prisons (Eighth Report of Session 2017-19)
2. NHS Capital Expenditure and Financial Management (Eighth Report of Session 2019-21)
3. NHS Nursing Workforce (Eighteenth Report of Session 2019-21)
4. Digital Transformation in the NHS (Twenty-Second Report of Session 2019-21)
5. COVID-19: Supply of Ventilators (Twenty-Seventh Report of Session 2019-21)
6. Reducing Emergency Admissions (Forty-Fourth Report of Session 2017-19)
7. COVID-19: Test, Track and Trace (Part 1) (Forty-Seventh Report of Session 2019-21)
8. Interface between Health and Adult Social Care (Sixty-Third Report of Session 2017-19)
9. Mental Health Services for Children and Young People (Seventy-Second Report of Session 2017-19)
10. Clinical Commissioning Groups (Eighty-Third Report of Session 2017-19)
11. Auditing Local Government (Eighty-Fifth Report of Session 2017-19)
12. NHS Financial Sustainability: Progress Review (Ninety-First Report of Session 2017-19)
13. Adult Health Screening (Ninety-Sixth Report of Session 2017-19)
14. NHS Waiting Times for Elective and Cancer Treatment (One-Hundredth Report of Session 2017-19)
15. Penalty Charge Notices (One-Hundred and Fifteenth Report of Session 2017-19)

The following items of correspondence are also provided:

16. TM8 – Mental Health in Prisons
17. TM63 – Interface between Health and Adult Social Care