

Amanda Pritchard
Chief Executive
NHS England and NHS Improvement

18 January 2022

Dear Amanda,

MINISTERIAL DIRECTION REGARDING CONTRACTS WITH INDEPENDENT SECTOR PROVIDERS

The Comptroller and Auditor General has provided me with copies of the exchange of letters between yourself and the Secretary of State for Health and Social Care requesting and issuing a Ministerial Direction. I should be grateful if you would provide some further information about this issue.

Timing and transparency requirements

I note that the exchange of letters took place last Friday 7 January, and that on Monday 10 January NHS England [announced](#) to the media and [to senior staff across the NHS](#) that the deals had been signed and the new arrangements had taken effect. However, I only received a full copy of the Direction on Tuesday 11 January and as of writing a full version has still not been uploaded to the correct [Gov.UK page](#).

This is not in line with the [guidance issued to all Accounting Officers](#) in December 2021 by the Treasury Officer of Accounts, which clearly stated all Ministerial Directions must be published promptly on Gov.UK and that the Chair of the Committee of Public Accounts must be made immediately aware. I do not expect such a delay to occur again.

In addition, could you please confirm:

- when the contracts were signed, or when you first entered into an undertaking with each of the providers if there was some prior agreement? And
- why contingency arrangements for additional capacity for the NHS were only put in place in January, given that significant winter pressures are an annual event?

Purpose of the contracts and assessment of value for money

In your letter to the Rt Hon Secretary of State for Health and Social Care you say that you are responding to a request from government to “make the changes necessary **to maximise the use of Independent Sector bed capacity across England** in the event that local NHS G&A bed capacity (including surge capacity) is at significant risk of being overwhelmed”.

Could you please clarify for me:

- the basis for concluding that there is a significant risk that local NHS general and acute bed capacity (including surge capacity) could be overwhelmed; and
- that these contracts, while they contain risks, represent the best value for money approach to managing that risk. Or

- whether there were other, viable options that maintained or improved value for money in managing this risk but that you elected to make use of ISPs following a specific request to do so? In which case please provide me with details of that request.

You will be aware of guidance from HM Treasury that “it is good practice to prepare an Accounting Officer Assessment for each novel and contentious transaction or proposal involving the use of public funds.”¹ Will you confirm

- whether you carried out an Accounting Officer Assessment for your proposed approach;
- whether you reviewed and signed off a Business Case for this approach;
- what alternative approaches you considered; and
- whether you discussed your proposed approach in advance with HM Treasury, and if so what advice you received?

Next steps

If NHS England approves the trigger point for the surge arrangements in these contracts (at system, regional or national level), then I ask that this is notified to me in writing at or immediately after that point. I should be grateful if you would also write to me again as soon as you have certainty on the total costs for these arrangements – I appreciate this may be close to or slightly after the end of March, when the period covered by these contracts expires.

For the other issues raised in this letter, I would like to receive a response by the end of January.

I copy this letter to the Chair of the Health and Social Care Committee, The Rt Hon Jeremy Hunt MP, the Comptroller and Auditor General and the Treasury Officer of Accounts.

Yours sincerely

Dame Meg Hillier MP



Chair of the Committee of Public Accounts

¹ [Accounting Officer Assessments: guidance](#), HM Treasury, 2021 Page 4, paragraph 1.5