Department of Health & Social Care

Department of Health and Social Care

Group Accounting Manual 2017-18

Additional Guidance v3

March 2018

DH ID box
Title: Department of Health and Social Care Group Accounting Manual Additional Guidance v3
Author: Finance Directorate/ Accounts/ Accounts and Operations / 14470
Document Purpose: Guidance
Publication date: March 2018
Target audience: Accounts Compilation Teams Across the Department of Health and Social Care Group
Contact details: Steven Wareing Finance Directorate – Accounts Department of Health and Social Care Room 2S14, Quarry House Leeds LS2 7UE DH_GAM@dh.gsi.gov.uk

Published to gov.uk, in PDF format only.

www.gov.uk/dh

Contents

Introduction

1. The *Department of Health and Social Care Group Accounting Manual 2017-18* (*GAM*) was published in June 2017. The *GAM* sets the accounting policies to be followed by members of the Department's consolidation group and provides principles-based guidance to DHSC group bodies on how to prepare and complete their annual reports[1] and accounts.

2. This additional guidance updates the *GAM*, is mandatory, and must be treated as having the same status as the *GAM* itself.

3. This document will be updated as additional FAQs arise, so that all additional guidance for 2017-18 will be contained within a single document.

4. This is the third version of additional guidance to be published for the 2017-18 *GAM*. Updates to the 2017-18 *GAM* were published in December 2017 and January 2018, to help inform interim accounts preparation.

5. Where additional FAQ's have arisen since version 1 of this guidance, their title is suffixed with the term 'NEW'. Given the inherent fluidity with a number of the topics covered in this document, there are instances where new FAQ's update the v1 Additional Guidance. Additional text within the initial FAQ identifies where this is the case.

6. Please also note throughout this additional guidance and the updated 2017-18 *GAM,* the Department is now referred to by its new title.

[1] NHS foundation trusts follow the *NHS Foundation Trust Annual Reporting Manual 2017-18* for the purpose of preparing annual reports.

FAQ 1 – Changes in Discount Rates at 31 March 2018

Background

7. As advised in the *Group Accounting Manual 2017-18* (Chapter 4 Annex 7), Treasury discount rates are revised each year and are notified by means of a PES paper.

8. PES (2017) 10 *Discount Rates for Post-Employment Benefits and General Provisions: Announcement of Rates* was issued on 11 December 2017. The key points are summarised below.

GAM Application

9. By issue of this FAQ, Chapter 4 Annex 7 and Chapter 5 Annex 1, note 1.22 of the *GAM* are updated in accordance with the following text.

General Provisions

10. The general provisions discount rates are used to discount future cash flows related to provisions recognised in accordance with IAS 37.

11. Treasury gives rates for short, medium and long-term general provisions. These are defined as follows:

    - ***Short-term rate:*** A real discount rate to be applied to the cash flows of general provisions in a time boundary of between 0 and up to and including 5 years from the Statement of Financial Position date.

    - ***Medium-term rate:*** A real discount rate to be applied to the cash flows of general provisions in a time boundary of after 5 and up to and including 10 years from the Statement of Financial Position date.

    - ***Long-term rate:*** A real discount rate to be applied to the cash flows of general provisions in a time boundary exceeding 10 years from the Statement of Financial Position date.

12. The real discount rates to be applied on 31 March 2018 to determine the net present values of provisions are:

Rate	Real Rate
Short-term	**Minus 2.42%** (previous rate: -2.70%)
Medium-term	**Minus 1.85**% (previous rate: -1.95%)
Long-term	**Minus 1.56**% (previous rate: -0.80%)

13. Note – it is the timing of the expected cash flow that governs the discount rate used – the PES papers make no reference to setting discount rates according to the overall term of the arrangement. Thus, to arrive at the SoFP balance for a provision with expected cash flows occurring in each year for 20 years, each of the three rates will need to be applied. It would not be appropriate to discount cash flows at the long-term rate in the first 10 years simply because the liability is not expected to be wholly discharged until year 20.

Post-Employment Benefits Provisions

14. The real discount rate applicable on 31 March 2018 is **0.10**% (the previous year's rate was 0.24%).

15. The rate is applicable for all provisions for continuing obligations arising from previous employment service.

Accounting – Both Categories of Discount Rate

16. The real discount rate is used where expected cash flows are expressed in current prices, i.e. those cash flows have not been uplifted for expected future inflation.

17. Accounting impacts: an increase in the discount rate for provisions results in a lower carrying value at the year end, with a consequent credit to the revenue account in-year, and vice versa.

Type of provision	**Movement in discount rate compared to prior year**	**Impact on carrying amount and SoCNE/SoCI**
Short-term (general)	**Increase** (i.e. **decrease** in negative rate)	**Decrease** carrying amount of provision at 31 March 2018. **Credit** to revenue account.
Medium-term (general)	**Increase** (i.e. **decrease** in negative rate)	**Decrease** carrying amount of provision at 31 March 2018. **Credit** to revenue account.
Long-term (general)	**Decrease** (i.e. **increase** in negative rate)	**Increase** carrying amount of provision at 31 March 2018. **Debit** to revenue account**.**
Post-employment	**Decrease** (i.e. **decrease** in positive rate)	**Increase** carrying amount of provision at 31 March 2018. **Debit** to revenue account.

Financial instruments

18. The financial instrument discount rate is used for some financial instruments in accordance with the requirements of the Financial Reporting Manual.

19. The *FReM* states (Table 6.2):

    Where future cash flows are discounted to measure fair value, entities should use the higher of the rate intrinsic to the financial instrument and the real financial instrument discount rate set by HM Treasury (promulgated in PES papers) as applied to the flows expressed in current prices.

20. The real financial instrument discount rate to be applied at 31 March 2018 is 0.7% (previously 0.7%). The rate as applied to flows expressed in current prices is RPI + 0.7%, where the financial instrument is index linked to RPI. Where the financial instrument is not linked to an inflationary index, and a nominal rate is required, 3.7% may be used.

Changing Discount Rate Methodology for 2018-19

21. Further to the changes in discount rates for the 2017-18 GAM that are detailed above, please note that the PES (2017) 10 outlines a change in methodology for determining general provision discount rates for 2018-19.

22. In November 2017 the Financial Reporting Advisory Board approved a change in methodology which will see HM Treasury provide departments with ***nominal rates*** for general provisions and long term liabilities other than pensions and termination benefits.

23. As HM Treasury will adopt this approach from 2018-19, guidance will be issued by HMT in 2018-19 to assist with the practical implications of this change (such as assessing inflationary effects on cash flows) as well as revising the 2018-19 FReM accordingly.

24. These HM Treasury updates will be reflected in the 2018-19 GAM accordingly.

FAQ 2 – Injury Costs Recovery revenue – probability of non-recovery

Background

25. Paragraphs 4.43 – 4.44 of the *GAM* describe the treatment of Injury Costs Recovery (ICR) revenue.

26. When estimating ICR revenue, the *GAM* instructs NHS providers to include an amount within the provision for impairment of receivables to reflect income that is not expected to be received. Each year, the Compensation Recovery Unit (CRU) advises a percentage probability of not receiving the income.

27. The updated figure for 2017-18 is **22.84**%. By issue of this FAQ, paragraphs 4.43 – 4.44 of the *GAM* are amended to reflect this figure.

GAM Application

28. If it is material, **22.84**% of accrued ICR revenue should be included within the provision for impairment of receivables. However, where NHS providers are in a position to make a reliable estimate of their own provision percentage they should use their own local information to inform the provision.

29. As the NHS Injury Cost Recovery Scheme derives from statute rather than contracts, it does not fall within the scope of financial instruments and this provision does not need to comply with the "objective evidence of impairment" requirement when considering impairment of financial assets under IAS 39.

FAQ 3 – Apprenticeship Levy

Background

30. The June 2017 publication of the *GAM* contained a holding position relating to the Apprenticeship Levy, recognising that there would be accounting implications arising from the levy's introduction, but the detail concerning the appropriate accounting treatment was yet to be finalised.

31. On the establishment of this policy, HM Treasury tasked the Department for Education (DfE), as the lead department, with developing the accounting guidance to be applied across central government.

32. DfE's guidance has been developed and agreed with HM Treasury and the National Audit Office. The 2017-18 Financial Reporting Manual has therefore been updated to set out the required accounting treatment. As a result the GAM can now be amended with full guidance on accounting for the levy.

33. Whilst the guidance set out below identifies that there is no accounting standard that directly applies to the levy charge, this is not to say that the policy or accounting approach is inconsistent with previously established HM Treasury guidance.[2]

34. Please also note that due to the late confirmation of the levy treatment, the necessary non-cash lines to record the grant income and training expense which arises when accessing funds for training (if not the training provider), have been omitted from the Q3 summarisation schedules, so can be omitted from the Q3 Agreement of Balances exercise. Please note the appropriate non-cash lines discussed in the guidance below will be in the Q4 schedules and are therefore to be included in the Q4 exercise.

GAM amendments

35. By issue of this FAQ, paragraph 4.71 of the *GAM* is replaced as follows:

Apprenticeship Levy

~~4.71. The Apprenticeship Levy is a levy introduced by the UK government on 6 April 2017, requiring all employers operating in the UK, with a pay bill over £3 million each year, to invest in apprenticeships. Affected employers are required to pay a levy of 0.5% of their pay bill, less an allowance of £15,000. Employers will then be able to access funding for apprenticeships through an account on the digital apprenticeship service. These funds will be used to make payments directly to approved training providers. Accounting arrangements for the levy are under discussion to ensure consistent treatment across government. Further guidance will be issued in due course.~~

4.71. The Apprenticeship Levy is a levy introduced by the UK Government on 6 April 2017, requiring all employers operating in the UK, with a pay bill over £3 million each year, to invest in apprenticeships. Affected employers are required to pay a levy of 0.5% of their pay bill, less an allowance of £15,000. Employers will then be able to access funding for apprenticeships through an account on the digital apprenticeship service. These funds will be used to make payments directly to approved training

[2] For more details on levies and tax classifications see HMT's Classification of Public Receipts s2.4 & 4.13 to 4.17

providers. The Government has published guidance for employers on how the levy works[3].

4.72. Apprenticeships are a devolved policy, and different arrangements apply in each part of the UK. Employers in England will not be able to access funding in respect of their employees that live outside England.

4.73. The Department for Education is the lead department for the Apprenticeship Levy, and has developed accounting guidance to be followed by all central government bodies in England. This guidance is adopted in this manual, and DHSC group bodies must follow the requirements set out below.

4.74. There are two aspects to the treatment of the levy in local accounts:

- Recognition of the initial levy payment
- Recognition of the receipt of the associated training grant.

Recognising the levy payments

4.75. There is no accounting standard that directly applies to the levy charge. As such, accounting for the levy defaults to IAS 1, *Presentation of Financial Statements* and the overarching IASB *Conceptual Framework for Financial Reporting*.

4.76. Bodies subject to payment of the levy will see an outflow of assets when cash is paid over under the terms of the levy. The levy can therefore be treated as an expense under the definition set out in the Conceptual Framework. The nature of the expense has been confirmed to be a tax, surrenderable to the Consolidated Fund, and as such the levy must be recognised as an additional social security cost within the financial statements.

4.77. HM Treasury has determined that the use of virtual accounts to hold the levy paid over for 24 months does not support the need to recognise a prepayment in the financial statements. As the levy has tax status there should be no recognition of such prepayments for expected future utilisation of the training aspect. The expenditure must be recognised in the period in which it arose.

4.78. Any portion of the levy not yet paid over at the period end must be recognised as a social security liability in line with other social security expenditure not yet paid over to the relevant tax authority.

Benefits arising from apprentice training

4.79. It is expected that apprenticeship funding arising from the scheme will be passed directly to training providers. Consequently there will be different accounting treatments dependent upon whether the employer is a training provider.

4.80. If the employer is not a training provider, but benefits from the scheme via an employee receiving levy funded training, it remains necessary to recognise the value of the levy-funded training received. The portion of the employees' training funded by this scheme must therefore be recognised as a non-cash expense in the period in which the training occurs. To ensure that performance is neutral, an additional non-cash income amount equal to the costs paid directly to the training provider must also be recognised. This income must be accounted for in accordance with IAS 20, *Accounting for Government Grants and Disclosure of Government Assistance*.

[3] https://www.gov.uk/government/publications/apprenticeship-levy-how-it-will-work/apprenticeship-levy-how-it-will-work

4.81. If the employer is itself an accredited training provider, then it will receive cash payment for its training activities. Again this income is accounted for in accordance with IAS 20. Expenditure incurred in delivering training is accounted for in the usual way.

FAQ 4 – Performance Disclosures for NHS Trusts

Background

36. This FAQ confirms the requirement for NHS trusts to disclose outturn against various performance measures in their annual reports and accounts.

Breakeven duty

37. Each NHS trust board is responsible for planning and controlling the activities, costs and income of the NHS trust to ensure that it remains financially viable at all times. The Board is accountable for financial control and for ensuring that the NHS trust meets its statutory duty to break even.

38. Paragraph 2(1) of Schedule 5 to the National Health Service Act 2006 states:

    Each NHS trust must ensure that its revenue is not less than sufficient, taking one financial year with another, to meet outgoings properly chargeable to [the] revenue account.

39. This is known as the breakeven duty, and NHS trusts must include a disclosure note of performance against this duty in their accounts.

40. NHS Improvement will revise and reissue the previous guidance on applying and reporting on the breakeven duty. The new guidance, when published in the coming weeks, will be available online.

Capital resource limit

41. Each NHS trust is set a capital resource limit, which is a limit on the amount of capital expenditure it is permitted to incur in the financial year.

42. NHS trusts must include a disclosure note of performance against this limit in their accounts, which must follow the format provided in the summarisation schedules issued by NHS Improvement.

External finance limit

43. Each NHS trust is set an external finance limit, which is a limit on net external financing.

44. NHS trusts must include a disclosure note of performance against this limit in their accounts which must follow the format set out in the GAM amendment below.

Capital absorption rate

45. Previously NHS trusts were required to provide a disclosure on capital absorption rate. From 2017-18, this disclosure is no longer required

GAM amendments

46. By issue of this FAQ, the following paragraphs are added to the *GAM* to formalise the above disclosure requirements:

Performance disclosures for NHS trusts

5.195. NHS trusts must include a disclosure note of performance against the breakeven duty. Trusts should refer to guidance issued by NHS Improvement for details of the application of the breakeven duty and the required disclosure.

5.196. NHS trusts must also include a disclosure note of performance against the capital resource limit. This must follow the format provided in the summarisation schedules issued by NHS Improvement.

5.197. NHS trusts must also include a disclosure note of performance against the external finance limit using the following format: [See FAQ 9 for an amended version of this disclosure]

Cash flow financing (1)	**X**
Finance leases taken out in year	**X**
Other capital receipts	**X**
External financing requirement	**X**
External finance limit (EFL)	**X**
Under / (Over) spend against EFL	**X / (X)**

Note

(1) This is defined as net cash flows before financing, following the derivation previously set out in 2016-17 summarisation schedules.

FAQ 5 – Newly Formed NHS Providers

Background

47. Chapter 4 Annex 9 of the *GAM* provides guidance for entities changing status and newly formed entities.

48. The annex includes guidance for NHS foundation trusts in their first period of operation. This guidance was written on the basis that such FTs will have been formed by an NHS trust attaining foundation trust status. However, this will not apply where existing providers have merged to form a completely new FT. Similarly, it is possible for a new NHS trust to be created. Hitherto, the annex did not provide guidance for these situations. This FAQ therefore clarifies how such newly created providers should report in their first period of operation.

Comparative information for new NHS providers

49. Where an NHS provider is newly created to assume functions from previous bodies, it does not report a nil comparative Statement of Financial Position. Instead, it must report a comparative Statement of Financial Position and related notes as at the date of authorisation, after recording the initial transfers from the predecessor bodies. This is explained in more detail in a revised version of the annex, set out below.

GAM amendments

50. By issue of this FAQ, Chapter 4 Annex 9 of the *GAM* is amended to move existing guidance on newly authorised FTs into the section for NHS trusts attaining NHS foundation trust status, and to add a new section with guidance for newly created NHS trusts and foundation trusts. These changes are set out below:

Chapter 4 Annex 9: Reporting requirements on change of status

4A9.1. This annex provides information to all users on the reporting requirements arising from a change in entity status. Entities should consult the subsection relevant to their circumstances. Not all of the guidance included in this annex will apply to every entity. Information on the accounting treatment of such changes in status can be found in paragraphs 4.179 to 4.193.

NHS trusts attaining NHS foundation trust status

Action for NHS trusts *(new sub-heading)*

4A9.2. The trust is responsible for reporting its financial position for the period it was an NHS trust both prior to and post its authorisation as an NHS foundation trust in accordance with the national timetable issued by NHS Improvement. It is important that all trusts (including those subject to mid-year transactions) adhere to the national timetable.

~~NHS trusts and foundation trusts in their first period of operation~~

Action for NHS foundation trusts *(new sub-heading)*

~~4A9.6. NHS trusts attaining foundation trust status must also consult the requirements outlined in paragraphs 4A9.2 to 4A9.5 above.~~

4A9.6. When an NHS trust is authorised as an NHS foundation trust, an ARA must still be published for the final period of the NHS trust's existence. […]

New NHS trusts and foundation trusts in their first period of operation ***(new heading)***

This section does not apply where an NHS trust is authorised as an NHS foundation trust, covered in the separate section outlined in paragraphs 4A9.2 to 4A9.11 above**.**

4A9.12. **An NHS trust or foundation trust may be created directly as a new body, rather than, for instance, an NHS trust attaining foundation trust status. Where such a body takes over the functions of previous bodies, related assets and liabilities will transfer to the new body through transfer by absorption, as described from paragraph 4.185.**

4A9.13. **The new provider will therefore begin with a nil opening balances and will record inward absorption transfers immediately following its creation. However, it is not required to disclose a nil comparative SoFP and nil opening positions for related notes. Instead the new provider must disclose a comparative SoFP and related notes as at the date of authorisation after recording the initial transfer(s) by absorption from predecessor organisations.**

4A9.14. **The SoCTE must separately identify the equity transferring as a result of the opening absorption transfers. Immediately below the nil opening balance a row must be added for 'opening transfers by absorption', recording the effect of the absorption gain or loss on the income and expenditure reserve, with a further row showing transfers between reserves for the absorption transactions if necessary. The row for 'surplus/deficit for the year' must be renamed to exclude the effect of the opening transfer by absorption on surplus/deficit. Any separate transfer by absorption (not part of the opening position of the entity) must be shown in subsequent rows as normal.**

FAQ 6 – Trade and Other Receivables

Background

51. Paragraphs 5.100 to 5.104 of the *GAM* describe the presentation of trade and other receivables and related disclosures.

GAM amendment

52. Paragraph 5.102 relates to text deleted since the previous year's *GAM* and is no longer relevant in this section. By issue of this FAQ, paragraph 5.102 is deleted.

~~5.102. See *Chapter 4 Annex 5: Accounting requirements for PFI/LIFT schemes* for further information.~~

FAQ 7 – HMT Financial Reporting Manual – December 2017 update

Background

53. HM Treasury publishes the *Financial Reporting Manual* (*FReM*), on which the *GAM* is based. Each December, HMT publishes the *FReM* for the next accounting year, as well as updating the *FReM* for the current year as required.

54. HMT published the 2018-19 *FReM* and an update to the 2017-18 *FReM* during the week commencing 18 December 2017. As some sections of text in the *GAM* are based directly on the *FReM*, it is therefore appropriate to update them similarly where needed. This FAQ describes the relevant *FReM* changes and how they affect the text of the *GAM*.

55. Updates to the 2017-18 *FReM* are included in the 2018-19 *FReM*. Additionally, the 2018-19 *FReM* includes various changes for the introduction of new accounting standards IFRS 9, *Financial Instruments* and IFRS 15, *Revenue from Contracts with Customers*, which will come into effect for central government bodies on 1 April 2018.

IFRS Practice Statement 2: Making Materiality Judgements

56. The International Accounting Standards Board issued *IFRS Practice Statement 2: Making Materiality Judgements* in September 2017. This practice statement does not change the definition of materiality, but provides additional guidance on applying it. A footnote is added to paragraph 1.2.1b of the *FReM*, requiring the application of materiality to be in line with the practice statement.

57. Accordingly, a reference to the new practice statement is added to the *GAM*.

Civil Servant and Other Pension Scheme (known as 'alpha')

58. Paragraph 9.1.1 of the FReM provides a list of unfunded public sector pension schemes to which interpretations to IAS 19, *Employee Benefits* and IAS 26, *Accounting and Reporting by Retirement Benefit Plans* apply. Employers with whose employees are members of these schemes are required to account for them as defined contribution plans.

59. The 'alpha' pension scheme, more formally known as the Civil Servant and Other Pension Scheme, is now added to this list. Correspondingly, various existing references in the *GAM* to the Principal Civil Service Pension Scheme are amended to refer to both Civil Service pensions schemes.

Performance Report and Staff Report

60. The Non-Financial Reporting Regulations 2016 (SI 2016/1245) implemented the EU Non-Financial Reporting Directive (2014/95/EU) for financial years beginning on or after 1 January 2017. These regulations are intended to benefit of users of the accounts by strengthening non-financial reporting requirements.

61. As a result, various amendments to reporting requirements in the Performance Report and Staff Report are introduced to the *FReM* with effect from 2017-18. These amendments are replicated in the *GAM*, as set out below.

GAM amendments

62. By issue of this FAQ, the amendments set out below are made to the 2017-18 *GAM*:

Performance Report

Overview

3.14 The purpose of the overview is to give the user a short (no more than 10 to 15 pages) summary that provides them with sufficient information to understand the organisation, its purpose, the key risks to the achievement of its objectives and how it has performed during the year. The overview should be enough for the lay user to have no need to look further into the rest of the ARA unless they were interested in further detail or had specific accountability or decision-making needs to be met.

3.15 As a minimum, the overview must include:

- a short summary explaining the purpose of the overview section
- a statement from the chief executive providing their perspective on the performance of the organisation over the period
- a statement of the purpose and activities of the organisation**, including a brief description of the business model and environment, organisational structure, objectives and strategies**
- the key issues and risks that could affect the entity in delivering its objectives
- an explanation of the adoption of the going concern basis (see paragraphs 4.11-4.16 below) where this might be called into doubt (for example, by the issue of a report under Section 30 of the *Local Audit and Accountability Act 2014*[17] for a CCG or an NHS provider), and
- a performance summary.

Performance analysis

3.16 The purpose of the performance analysis is for entities to provide a detailed performance summary of how their entity measures its performance, more detailed integrated performance analysis and long term expenditure trend analysis where appropriate.

3.17 As a minimum, the performance analysis must include:

- Information on how the entity measures performance i.e. what the entity sees as its key performance measures**,** ~~and~~ how it checks performance against those measures**, and narrative to explain the link between KPIs, risk and uncertainty**.
- A more detailed analysis and explanation of the development and performance of the entity during the year **and an explanation of the relationships and linkages between different pieces of information**. This analysis is required to utilise a wide range of data including key financial information from the financial statements section of the accounts.
- **Non-financial information, including social matters, respect for human rights, anti-corruption and anti-bribery matters.**
- **Information on environmental matters, including the impact of the entity's business on the environment. Entities must also comply** ~~Compliance~~ with mandatory sustainability reporting requirements. Reporting entities are expected to report annually on sustainability matters. Mandatory reporting requirements can

be met by following the standard reporting format for NHS bodies produced by the Sustainable Development Unit. It is envisaged that reporting entities will produce a report that will be integral, with reference throughout the annual report and accounts and not a separate standalone report.

- Performance on other matters raised during the year (for example, in Treasury PES papers): DHSC will notify group bodies of such additional requirements in FAQs.

The Accountability Report

Remuneration and staff report

Staff report

3.57 The staff report must include the following information:

f) Other employee matters – other diversity issues and equal treatment in employment and occupation; employment issues including employee consultation and/or participation; health and safety at work; trade union relationships; and human capital management such as career management and employability, pay policy etc.

~~f~~**g**) Expenditure on consultancy (see *Chapter 5 Annex 2: Consultancy definition*)

Accounting policies and materiality

4.25 Entities should refer to IFRS Practice Statement 2: *Making Materiality Judgements*, issued in September 2017, for further guidance on materiality.

Retirement benefits

4.6~~5~~**6** Retirement benefits must be accounted for in accordance with IAS 19, *Employee Benefits*. As set out in *Chapter 4 Annex 1: Standards and applicability to the DHSC group*, IAS 19 is interpreted to require the NHS Pensions Scheme**,** ~~and~~ the Principal Civil Service Pension Scheme **and the Civil Servant and Other Pension Scheme (known as 'alpha')** to be accounted for as defined contribution schemes. DHSC group bodies paying in to these schemes must therefore recognise an expense equal to their employer contribution to the scheme during the year.

Chapter 4 Annex 1: Standards and applicability to the DHSC group

Standard/Interpretation and its objective	Applicability to the DHSC group (as prescribed by the *FReM*)
IAS 19 *Employee benefits* IAS 19 prescribes the accounting and disclosures for all types of employee benefits: • short-term benefits, for example salaries and wages, social security contributions, paid leave and non-monetary benefits • post-employment benefits that result from employment, for example retirement benefits • other long-term benefits, for example long service or sabbatical leave • termination benefits, that is, that arise directly from termination rather than from employment. It requires an entity to recognise the cost of providing employee benefits in the period in which the benefit is earned rather than when paid or payable **Further details in the *GAM*:** 4.6~~5~~**6** to 4.7~~0~~**1**, 5.32 to 5.36, 5.41 to 5.43, 5.12~~5~~**4** to 5.12~~65~~ Also see IFRIC 14: *IAS 19 – The Limit on a Defined Benefit Asset, Minimum Funding Requirements and their Interaction*	Applies with the following interpretations: • DHSC group bodies shall account for the NHS Superannuation Scheme**,** ~~and~~ the Principal Civil Service Pension Scheme **and the Civil Servant and Other Pension Scheme (known as 'alpha')** as defined contribution plans. • For defined benefit obligations, IAS 19's requirements on current valuations are interpreted to mean that the period between formal actuarial valuations should be four years, with approximate valuations in intervening years. • DHSC group bodies with staff who are in funded schemes, for instance the local government scheme, must use the discount rate determined in accordance with IAS 19, as advised by the scheme's actuary. • Voluntary terminations with agreed terms under a pension scheme must be treated as post-employment benefits and so discounted using the rate applicable to pensions of that scheme. Involuntary terminations and voluntary terminations whose terms are available for a short time only must be treated as termination benefits and so discounted using the rate for provisions.

Pension costs

5.41 The relevant standard is IAS 19, *Employee Benefits*. Entities with employees that are members of ~~either~~ the NHS Pensions Scheme**,** ~~or~~ the Principal Civil Service Pension Scheme **or the Civil Servant and Other Pension Scheme** unfunded, defined benefit pension schemes must apply the adaptation to IAS 19 requiring the schemes to be treated as defined contribution schemes.

5.42 Disclosure note requirements are provided each year by NHS BSA (NHS Pensions Scheme), and by Cabinet Office (~~Principal Civil Service Pension Scheme~~ **Civil Service Pensions**). NHS Pensions Scheme requirements will be published by the relevant national bodies. Requirements for entities with employees in the Principal Civil Service Pension Scheme **or Civil Servant and Other Pension Scheme** are included in the relevant illustrative accounts published by HM Treasury, with changes being published on http://www.civilservicepensionscheme.org.uk/employers/employer-pension-notices/ as Employers Pensions Notices (EPN).

FAQ 8 – Off-payroll Working Changes

Background

63. This FAQ provides detail around the changes to be made to the rules and reporting under the Income Taxes (Earnings and Pensions) Act 2003, often known as IR35 that have applied to the 2017-18 reporting cycle.

64. The revised reporting requirements have been in place since April 2017 and incorporate an increase to the contractor reporting rate of £245 per day but also reformation of legislation underpinning what is normally referred to as IR35.

65. The key changes under this regulation is the need to ensure employment status determinations are completed for all off-payroll engagements and the establishment of a periodic re-assessment mechanism that is ideally a quarterly activity that is conducted through a targeted, risk based approach.

66. Guidance and more information can be found here: [Off-payroll working rules (IR35) for public authorities - GOV.UK]

GAM Amendments

67. By order of this FAQ Chapter 3 Annex 4 –“off-payroll engagements” is amended as per the following in the 2017-18 GAM.

Chapter 3 Annex 4 – “off-payroll” engagements

Introduction

3A4.1. A Treasury requirement for public sector bodies to report arrangements whereby individuals are paid through their own companies (and so are responsible for their own tax and NI arrangements, not being classed as employees) has been promulgated in Public Exenditure System (PES) guidance. Treasury’s guidance on this is summarised below.

~~3A4.2. Payments to GP practices for the services of employees and GPs are deemed to be “off-payroll” engagements, and are therefore subject to these disclosure requirements.~~

~~3A4.3. Note that the guidance below is currently based on the reporting requirements for 2016-17. From 1 April 2017, new regulations on the use of off-payroll arrangements come into force, requiring anyone deemed to be an employee to be paid through payroll. This will include engagements at less than £220 per day or of less than six months duration. The reporting requirements for 2017-18 are expected to be issued in PES guidance in December 2017, at which point the guidance below will be updated by issue of an FAQ.~~

3A4.2. For the 2017-18 reporting cycle there are two significant changes. The first, an increase to the contractor reporting threshold of £245 per day which is separate and distinct to, the second, relating to reformed off-payroll rules summarised below.

Reformed off-payroll Working Rules (New Sub Header)

3A4.3. **The Government has reformed the Intermediaries legislation, introducing Chapter 10 Part 2 Income Taxes (Earnings and Pensions) Act 2003 (ITEPA 2003) supporting Chapter 8 Part 2 ITEPA 2003, often known as IR35. The legislation for the off-payroll working rules within the public sector applies to payments made on or after 6 April 2017.**

3A4.4. **Under the reformed off-payroll working rules, Departments must determine whether the rules apply when engaging a worker through a Personal Service Company (PSC). Guidance and more information can be found here: Off-payroll working rules (IR35) for public authorities - GOV.UK**

3A4.5. **DHSC group bodies will already be operating the new rules to provide employment status determinations for all of their off-payroll engagements. Bodies will have also established a periodic re-assessment mechanism from 6 October 2017, in line with the revised reporting requirements of Table 2, covered below.**

Inclusion in Annual Reports

3A4.6. DHSC group bodies must include the disclosures set out below within the staff report section of their ARA (or within the financial statements if they wish, but if so, clearly signposted from the staff report). There is no requirement to have the disclosure audited (although inclusion in the financial statements will bring the disclosure into the scope of audit), and DHSC will not require information for consolidation purposes from NHS trusts, NHS foundation trusts and CCGs.

3A4.7. DHSC will, however, disclose comparable figures in respect of its own core business, and consolidated figures from DHSC ALBs, together with a note that individual DHSC group bodies are required to make disclosures in the remuneration report section of their ARA. DHSC group bodies should be aware that this information is provided in the public interest and may be expected to be requested under the *Freedom of Information Act 2000*[4].

Guidance

3A4.8. Following the *Review of the tax arrangements of public sector appointees* published by the Chief Secretary to the Treasury on 23 May 2012[5], departments and their arm's length bodies (this is taken to include all those bodies included within the DHSC reporting boundary) must publish information on their highly paid and/or senior off-payroll engagements.

3A4.9. **Payments to GP practices for the services of employees and GPs are deemed to be "off-payroll" engagements, and are therefore subject to these disclosure requirements.**

3A4.10. As part of the remuneration report section of their ARA, DHSC group bodies must present the data described below in the following sections.

---

[4] http://www.legislation.gov.uk/ukpga/2000/36/contents

[5] https://www.gov.uk/government/publications/review-of-the-tax-arrangements-of-public-sector-appointees

Existing off payroll engagements

3A4.11. For all off-payroll engagements as of 31 March 2018, greater than ~~£220~~ **£245** per day and that last for longer than six months:

- the total number of existing engagements as of 31 March 2018
- the number that have existed for less than one year at time of reporting
- the number that have existed for between one and two years at time of reporting
- the number that have existed for between two and three years at time of reporting
- the number that have existed for between three and four years at time of reporting
- the number that have existed for four or more years at time of reporting~~, and~~
- ~~a declaration that all existing off-payroll engagements have at some point been subject to a risk based assessment as to whether assurance needs to be sought that the individual is paying the right amount of tax and, where necessary, that assurance has been sought.~~

3A4.12. Disclosure must be in the format shown in *Table 1: Off-payroll engagements longer than 6 months* below.

New off-payroll engagements ~~where public sector rules apply~~

~~3A4.10. For all new off-payroll engagements, or those that reached six months in duration, between 1 April 2017 and 31 March 2018, greater than £220 per day and that last for longer than six months:~~

- ~~the number of new engagements, or those that reached six months in duration, during the time period~~
- ~~the number of new engagements which include contractual clauses giving the employer the right to request assurance in relation to income tax and National Insurance obligations~~
- ~~the number for whom assurance has been requested~~
- ~~the number for whom assurance has been requested and received~~
- ~~the number for whom assurance has been requested but not received~~
- ~~the number that have been terminated as a result of assurance not being received.~~

~~3A4.11. In any cases where, exceptionally, the reporting entity has engaged without including contractual clauses allowing it to seek assurance as to their tax obligations – or where assurance has been requested and not received, without a contract termination – the body must set out the reasons for this.~~

~~3A4.12. Where an individual leaves after assurance is requested and before assurance is received this must be reported within "number for whom assurance has not been received".~~

~~3A4.13. Personal details of all engagements where assurance is requested but not received, for whatever reason, except where the deadline for providing assurance has not yet passed, must be passed to HMRC's tax evasion hotline. Employers should be aware that they will not be informed by HMRC of the results of any investigation it may~~

~~undertake and therefore employers cannot use this referral as part of their assurance process.~~

~~3A4.14. Instances where bodies are still waiting for information from the individual at the time of reporting must be reported as not received.~~

3A4.13. Following the changes described in 3A4.3, Table 2 has been revised to give greater visibility on how engagements have been assessed for tax purposes.

3A4.14. Therefore bodies must complete Table 2 for all new off-payroll engagements, or those that reached six months in duration, between 1 April 2017 and 31 March 2018, greater than £245 per day and that last for longer than six months:

- **the number of new engagements, or those that reached six months in duration, between April 2017 and March 2018**
- **the number of new engagements that fall under the remit of IR35**
- **the number of new engagements that do not fall under the remit of IR35**
- **the number of those engaged directly (via PSC contracted to the entity) and are on the entity's payroll**
- **the number of engagements reassessed for consistency / assurance purposes during the year**
- **the number of engagements that saw a change to IR35 status following the consistency review.**

3A4.15. Disclosure must be in the format shown in Table 2: *New Off-payroll engagements* below.

Board Member/Senior Management engagements

3A4.16. For any off-payroll engagements of board/Governing Body members and/or senior officials with significant financial responsibility between 1 April 2017 and 31 March 2018 reporting entities must also disclose:

- the number of off-payroll engagements of board/Governing body members and/or senior officials with significant financial responsibility
- details of the exceptional circumstances that led to each of these engagements
- details of the length of time each of these exceptional engagements lasted
- the total number of individuals both on and off-payroll that have been deemed "board members and/or senior officials with significant financial responsibility" during the financial year. This total figure must include engagements which are ON PAYROLL as well as those off-payroll.

3A4.17. Disclosure must be in the format shown in Table 3: *Off-payroll board member/senior official engagements* below.

Table 1: Off-payroll engagements longer than 6 months

For all off-payroll engagements as of 31 March 2018, for more than ~~£220~~ **£245** per day and that last for longer than six months

No. of existing engagements as of 31 March 2018	
Of which...	
No. that have existed for less than one year at time of reporting.	
No. that have existed for between one & two years at time of reporting.	
No. that have existed for between two and three years at time of reporting.	
No. that have existed for between three and four years at time of reporting.	
No. that have existed for four or more years at time of reporting.	

Table 2: New Off-payroll engagements

~~For all new off-payroll engagements between 1 April 2017 and 31 March 2018, for more than £220 per day and that last longer than six months:~~

	~~Number~~
~~Number of new engagements, or those that reached six months in duration, between 1 April 2017 and 31 March 2018~~	
~~Number of new engagements which include contractual clauses giving the *[entity name]* the right to request assurance in relation to income tax and National Insurance obligations~~	
~~Number for whom assurance has been requested~~	
~~*Of which:*~~	
~~– assurance has been received~~	
~~– assurance has not been received~~	
~~– engagements terminated as a result of assurance not being received~~	

~~*Note:*~~

~~*(1) It is expected that this number will be small as cases where assurance has not been received should generally be resolved by year end, and by publication of accounts at the latest.*~~

~~*In any cases where, exceptionally, the [employer] has engaged without including contractual clauses allowing the [employer] to seek assurance as to their tax obligations – or where assurance has been requested and not received, without a contract termination – the [employer] must set out the reasons for this.*~~

~~*Where an individual leaves after assurance is requested but before assurance is received this must be included within "No. for whom assurance has not been received".*~~

~~*Personal details of all engagements where assurance is requested but not received, for whatever reason, except where the deadline for providing assurance has not yet passed, must be passed to HMRC's tax evasion hotline.*~~

~~*Instances where departments are still waiting for information from the individual at the time of reporting must be reported as "No. for whom assurance has not been received".*~~

~~Where the reformed public sector rules apply, entities must complete Table 2: f~~ For all new off-payroll engagements, or those that reached six months in duration, between 1 April 2017 and 31 March 2018, for more than £245 per day and that last for longer than six months

No. of new engagements, or those that reached six months in duration, between 1 April 2017 and 31 March 2018	
Of which...	
No. assessed as caught by IR35	
No. assessed as not caught by IR35	
No. engaged directly (via PSC contracted to the entity) and are on the departmental payroll	
No. of engagements reassessed for consistency / assurance purposes during the year.	
No. of engagements that saw a change to IR35 status following the consistency review	

Table 3: Off-payroll board member/senior official engagements

For any off-payroll engagements of board members, and/or, senior officials with significant financial responsibility, between 1 April 2017 and 31 March 2018

No. of off-payroll engagements of board members, and/or, senior officials with significant financial responsibility, during the financial year. (1)	
No. of individuals that have been deemed "board members, and/or, senior officials with significant financial responsibility", during the financial year. This figure should include both off-payroll and on-payroll engagements. (2)	

Note

(1) There should only be a very small number of off-payroll engagements of board members and/or senior officials with significant financial responsibility, permitted only in exceptional circumstances and for no more than six months

(2) As both on payroll and off-payroll engagements are included in the total figure, no entries here should be blank or zero

In any cases where individuals are included within the first row of this table the department should set out:

- ***Details of the exceptional circumstances that led to each of these engagements.***
- ***Details of the length of time each of these exceptional engagements lasted.***

FAQ 9 – External Finance Limit Disclosure Note Revision NEW

Background

68. FAQ 4 defined a disclosure requirement for NHS trusts against the external finance limit. It has since come to light that the table provided for the disclosure note in FAQ 4, does not align to the calculation provided in the NHS Improvement provider finance in year monitoring return. In particular FAQ 4 incorrectly included a line for finance leases.

69. This FAQ replaces the guidance on external finance limit in FAQ 4 and sets out the correct reporting format.

GAM amendments

70. By issue of this FAQ, the following amendments are made to the *GAM.*

5.197 NHS trusts must also include a disclosure note of performance against the external finance limit using the following format:

External finance limit (EFL)	**X**
Cash flow financing (from SoCF) (1)	**X**
~~**Finance leases taken out in year**~~	~~**X**~~
Other capital receipts	**X**
External financing requirement	**X**
~~**External finance limit (EFL)**~~	~~**X**~~
Under / (Over) spend against EFL	**X / (X)**

Note

(1) This is defined as net cash flows before financing, following the derivation ~~previously~~ set out ~~in 2016-17 summarisation schedules.~~ in the NHS Improvement provider finance in year monitoring return.

FAQ 10 – Interaction between the Sustainability and Transformation Fund (STF) Incentive/Bonus and PDC Dividends NEW

71. This FAQ clarifies the calculation of the PDC dividend for 2017-18 in relation to STF bonus.

Background

72. As per 2016-17 a Sustainability and Transformation Fund (STF) has been made available to NHS providers in 2017-18, linked to the achievement of financial controls and performance targets.

73. Where providers rejected control totals or have failed to meet their financial controls and performance targets throughout 2017-18 the unearned elements of STF have been placed into a bonus/incentive pot to be allocated out between providers.

74. An element of the bonus calculation is based on the extent to which a provider improves its bottom line over and above the agreed control total. This element will be paid in 2018-19. Therefore providers entitled to STF bonus monies will recognise a receivable in their year-end 2017-18 accounts. This receivable will increase the value of average net relevant assets upon which the PDC dividend is calculated, thereby increasing the value of PDC dividend expenditure. If no action were taken, this increase in expenditure would erode performance against control totals, thereby reducing the value of STF bonus due and reducing the PDC dividend payable in perpetuity.

Clarification on calculation of PDC dividend

75. The Department of Health and Social Care PDC and Dividends Policy sets out how NHS providers should calculate their PDC dividend expense. This is summarised in the *Group Accounting Manual* (*GAM*).

76. Paragraph 4.159 of the *GAM* explains that a PDC dividend receivable or payable is excluded from the calculation of relevant net assets. This is to avoid a circular effect in the calculation. Given that incentive and bonus fund elements of the Sustainability and Transformation Fund will be paid after the year-end in 2017-18, if no action were taken, the associated receivable will change the PDC dividend and this would affect the STF bonus entitlement calculation itself.

77. To avoid this circular issue, NHS providers must exclude the receivable associated with the STF incentive and STF bonus fund from their calculation of relevant net assets for the purpose of calculating the PDC dividend.

78. Whilst this reflects the same approach as was adopted for 2016-17, this arrangement remains under review in each financial year and thus is not establishing a precedent in relation to the STF bonus.

79. If providers have further questions regarding STF and the PDC dividend, they should contact NHS Improvement in the first instance by email to ***nhsi.sector.reporting@nhs.net***

FAQ 11 - Publication Guidance for CCG and NHS Trusts Annual Audit Letters NEW

Background

80. From 2017-18 onwards under local audit arrangements, NHS Trusts and CCGs have appointed their own auditors. Under these arrangements no central body will collate and publish annual audit letters. As such DHSC clarified the operationalisation of this practice with the National Audit Office.

GAM amendments

81. By issue of this FAQ an additional annex is created in the *GAM* to provide guidance regarding the completion of this activity for NHS Trusts and CCGs.

Chapter 2 Annex 6 – Publication Guidance for CCG and NHS Trusts Annual Audit Letters

2A6.1. **The requirements for NHS trusts and CCG's regarding the publication of annual audit letters has been clarified with NAO and is as follows;**

2A6.2. **The Code of Audit Practice places a requirement on all CCG and NHS Trust auditors to issue an annual audit letter. An annual audit letter is intended to be a public document, and CCGs and NHS Trusts must ensure the document is made available to members of the public free of charge.**

2A6.3. **DHSC expects publication on the individual CCG / NHS Trust website to be the easiest way to ensure the annual audit letter is made available. The letter should only be made available on publication of the entity's Annual Reports and Accounts.**

FAQ 12 – Update to Better Payment and Late Payment Disclosure NEW

Background

82. Procurement policy note (PPN) 03/16 issued on 21 March 2015 restated the annual public requirements under regulation 113(7) of the Public Contract Regulations 2015 (PCRs). It requires contracting authorities to publish data demonstrating compliance, with the information being freely available via the internet.

83. The *FT ARM* incorporated the requirements under the PCRs 2015 into its January 2018 update to supplement the better payment practice (BPP) guidance provided. To align the entire provider sector, DHSC are similarly updating the *GAM* to reflect the PCR requirements in the BPP and late payment disclosures referenced in Chapter 5.

84. This entails that the revised reporting requirements are mandatory for NHS trusts. For all other entities that follow the *GAM,* the choice as to whether this information is published in the ARA, or in the below format, is discretionary. The PCRs mandate that the data be made freely available only. Nevertheless entities may consider the ARA and the format outlined below suitable approaches to satisfying the PCR reporting requirements.

GAM amendments

85. By issue of this FAQ Chapter 5 of the *GAM* is supplemented as follows.

Compliance with Public Contract Regulations 2015 (PCRs)

5.145. Procurement policy note (PPN) 03/16 issued on 21 March 2015 restated the annual public requirements under regulation 113(7) of the Public Contract Regulations 2015.[6] It requires contracting authorities to publish data demonstrating compliance, with the information being freely available via the internet.

5.146. The BPP and Late Payment disclosures above go a significant way to satisfying the requirements under PCR but do not generate 100% compliance. To ensure full compliance with PCRs entities must also disclose the following detail relating to payment performance and liability to pay interest accrued.

5.147. In relation to performance, disclosure should include;

- **the total number and value of invoices paid within 30 days**
- **the total number and value of invoices paid within the target that should have been paid within the 30 day period**
- **the percentage, by number and value, of invoices paid against invoices that should have been paid.**

5.148. In relation to any liabilities, disclosure should include;

- **the total amount of any liability to pay interest which accrued by failing to pay invoices within the 30 day period where obligated to do so**
- **the total amount of interest actually paid in the discharge of any such liability**

[6] Further guidance on the PCRs can be found at this link

5.149.To align provider sector reporting in the ARA, reporting as per the PCR requirements detailed in paragraph 5.147 and 5.148 is mandated for NHS Trusts. The *FT ARM* has mandated the reporting for FTs.

5.150. Whilst the PCRs apply to all departments, executive agencies, non-departmental public bodies and wider public bodies, the need to publish data demonstrating compliance with PCRs in the ARA is not mandatory. The PCRs merely request that the data is freely available on the internet. Whilst not mandated beyond the provider sector, entities may view the ARA and format described above a suitable framework through which to report PCR compliance.

5.151.The PCRs requirement for disclosure of payment performance exempts contracts within the scope of the NHS (Procurement, Patient Choice and Competition) (No2) Regulations 2013, thus referring to NHS healthcare contracts. This exemption specifically relates to NHS Commissioners and their healthcare contracts only, not extending to situations where providers sub contract with another provider.

5.152.Note that BPP and Late payment requirements remain in force and require the NHS / non-NHS split described in paragraph 5.140.

FAQ 13 – Update to Very Senior Manager Disclosure Figure NEW

Background

82. In January 2018 HM treasury announced that the threshold for senior pay disclosure has been increased from £142,500 to £150,000.

83. The *FT ARM* has been similarly updated to reflect the change.

GAM amendments

84. By issue of this FAQ the thresholds referenced in paragraph 3.42 of the *GAM* are revised from £142,500 to **£150,000.**

FAQ 14 – Publication of Revised Accounts Directions NEW

1. Schedule 15 paragraph 3(1) of the National Health Service Act 2006 requires NHS bodies to prepare annual accounts in such form as the Secretary of State may direct.

2. As there have been procedural and name changes since the directions initially provided to NHS bodies, such as the establishment of the national bodies and the NHS Manual for Accounts now being known as the Group Accounting Manual, these changes have been reflected in the accounts directions.

3. These revised directions are applicable to NHS trusts only.

4. In terms of publishing the revised directions the *GAM* was viewed as the most suitable vehicle to house these as this guidance is referred to by all impacted entities.

5. By issue of this FAQ, an addition of an annex is made to the *GAM*:

Chapter 2 Annex 4 – NHS Trusts Accounts Directions

2A4.1. DHSC has issued accounts directions to all NHS trusts, in accordance with schedule 15 paragraph 3(1) of the National Health Service Act 2006. The text of this direction is set out below.

2A4.2. Note the footnote numbering reflects that these directions are incorporated into the middle of a guidance document.

NATIONAL HEALTH SERVICE ACT 2006

DIRECTIONS GIVEN BY THE SECRETARY OF STATE IN RESPECT OF NATIONAL HEALTH SERVICE TRUSTS' ACCOUNTS

The Secretary of State for Health and Social Care, with the approval of the Treasury, in exercise of powers conferred on him by section 232 of and paragraph 3(1) of Schedule 15 to, and by section 273(1) of the National Health Service Act 2006 gives the following Directions:

Commencement and interpretation

1. (1) These Directions are given to English NHS trusts and come into force on the day after the day on which they are signed.

(2) In these Directions:

“the Accounts” means the accounts of an NHS trust for a given financial year[7];

“English NHS trust” means an NHS trust all or most of whose hospitals, establishments and facilities are situated in England;

“the trust” means the English NHS trust in question.

Form of Accounts, including statement of directors' responsibilities

2. (1) NHS trusts are directed as follows.

(2) The Accounts submitted under section 232 of and Schedule 15 to the National Health Service Act 2006 must show, and give a true and fair view of, the trust's gains and losses, cash flows and financial state at the end of the financial year.

(3) The Accounts must meet the accounting requirements of the Department of Health and Social Care Group Accounting Manual (“the Manual”) as it applies for the relevant financial year, as agreed with the Treasury.

(4) Where the Manual requires a statement of directors' responsibilities in respect of the Accounts, this must be signed and dated by the Chief Executive and Finance Director of the trust.

Revocation of 2008 Directions

4. The Directions entitled “*Directions by the Secretary of State in Respect of National Health Service Trusts' Accounts*”, signed on 10th January 2008, are revoked.

Signed by the authority of the Secretary of State for Health and Social Care

……………………………………………………………………………………………

by **Christopher Young**,

a member of the Senior Civil Service, Department of Health and Social Care, 39 Victoria Street, London SW1H 0EU.

Dated 2018

---

[7] “financial year” is defined in section 275 of the National Health Service Act 2006 (c. 41) as “a period of 12 months ending with 31st March in any year”.

2A4.3. A direction to NHS TDA has also been issued regarding the powers conferred by section 7(1) of the National Health Service Act 2006. The text of this direction is set out below.

NATIONAL HEALTH SERVICE ACT 2006

Directions to the National Health Service Trust Development Authority in respect of the Accounts and Annual Reports of NHS Trusts

The Secretary of State gives the following directions in exercise of powers conferred by section 7(1) of the National Health Service Act 2006:

Commencement and interpretation

1.–(1) These Directions are given to the NHS TDA and come into force on the day after the day they are signed.

(2) In these Directions:

"the 2006 Act" means the National Health Service Act 2006[8];

"accounts" means the annual accounts of an English NHS trust prepared under paragraph 3(1) of Schedule 15 to the 2006 Act[9];

"annual report" means the annual report of an English NHS trust prepared under paragraph 12(1) of Schedule 4 to the 2006 Act;

"English NHS trust" means a NHS trust all or most of whose hospitals, facilities and establishments are situated in England;

"the NHS TDA" means the National Health Service Trust Development Authority.[10]

Functions of the NHS TDA relating to exercise of Secretary of State's functions in respect of the accounts and annual reports of NHS trusts

---

[8] c. 41.

[9] The Secretary of State for Health and Social Care has also directed NHS trusts as to the form and content of their accounts. Those Directions were made on 23 March 2018 and can be found via this link: DHSC Group Accounting Manual.

[10] The National Health Service Trust Development Authority is established by the National Health Service Trust Development Authority (Establishment and Constitution) Order 2012, S.I. 2012/901, amended by S.I. 2013/235 and 2013/260.

2. The Secretary of State directs the NHS TDA to exercise the following functions of the Secretary of State–

(a) receiving copies of annual reports sent by English NHS trusts in respect of each financial year under paragraph 12(1) of Schedule 4 to the 2006 Act[11];

(b) receiving the accounts of NHS trusts in respect of each financial year under paragraph 5(1) of Schedule 15 to the 2006 Act[12]; and

(c) giving directions under paragraph 5(4) of Schedule 15 to the 2006 Act that specify the date, in respect of each financial year, by which accounts must, under paragraph 5(1) of that Schedule, be sent by English NHS trusts.[13]

Signed by the authority of the Secretary of State for Health and Social Care

……

Christopher Young, a member of the Senior Civil Service, Department of Health and Social Care, 39 Victoria Street, London SW1H 0EU

Dated ………………………………………………………………………………

[11] This direction, when read with section 275(3) of the 2006 Act, has the effect that the requirement in paragraph 12(1) of Schedule 4 to that Act for NHS trusts to submit their annual reports to the Secretary of State is to be read as a requirement for the submission of those reports to the NHS TDA. The following link to the NHS TDA's website provides information about how reports may be submitted to it: https://improvement.nhs.uk/resources/financial-reporting/.

[12] This direction, when read with section 275(3) of the 2006 Act, has the effect that the requirement in paragraph 5(1) of Schedule 15 to that Act for NHS trusts to submit their accounts to the Secretary of State is to be read as a requirement for the submission of the accounts to the NHS TDA. The NHS TDA's website at the link in footnote 11 provides information about how accounts may be submitted to it.

[13] See footnote 12 – NHS trusts must send their accounts to the NHS TDA by the date specified in directions made by the NHS TDA in the exercise of the Secretary of State's function under paragraph 5(4) of Schedule 15 to the 2006 Act.