VAT and the Public Sector: Reform to VAT Refund Rules

GMB Union Response
November 2020

Introduction

GMB is a general union which represents more than 600,000 people across the public and private sectors. GMB represents workers in a wide range of public service roles, as well as the NHS and we are the largest union in ambulance services. This submission is focussed on the impacts of these reforms on the NHS.

Wholly Owned Subsidiaries

GMB Union is opposed to privatisation within our NHS, including the establishment of Wholly Owned Subsidiaries. These companies have effectively moved thousands of NHS workers out of employment in the NHS. Despite existing staff being protected by TUPE, new staff are in the main employed on lesser terms and conditions, with no access to the NHS pension scheme, thus creating a two tier system. In 2018, Freedom of Information Act requests by GMB established that at least a thousand NHS workers had been transferred to wholly-owned subsidiary companies and were no longer automatically entitled to Agenda for Change pay rates and terms and conditions.

GMB has actively campaigned against the establishment of Wholly Owned Subsidiaries in the past and will continue to do so against any future applications. Most recently seen at Frimley NHS. These companies are proving to have a detrimental impact on services: staff are on differing terms and conditions leading to low morale; inefficiencies as some have to replicate or pay for services from the host trust; land and estates have been transferred out of the Trusts and potentially into the hands of the private sector.

Guidance for the establishment of Wholly Owned Subsidiaries has been issued previously by the Department of Health and Social Care and was followed by further guidance from NHS Improvement. Prior to the Coronavirus Pandemic there was to be a further revision of the guidance and GMB was involved in working with NHS Improvement to influence the content. However, this work has not progressed due to efforts being focussed on the pandemic. It is expected that this may continue in Spring 2021. All the guidance to date places an emphasis on Trusts not basing their decisions for establishing Wholly Owned Subsidiaries on tax avoidance reasons. However, the reality is that VAT savings continues to be the biggest motivation for NHS Trusts, with additional reasons given in business cases to disguise this fact.

GMB would welcome any proposals that would remove the financial incentive for NHS Trusts to establish Wholly Owned Subsidiary Companies.

Outsourcing

The policy paper discusses the Full Refund Model and GMB has concerns about the potential impacts of this on outsourcing in the NHS and the wider public sector.

GMB is opposed to outsourcing of contracts within the public sector and NHS. Many have failed to deliver services to an acceptable standard and assisted in driving down the pay and terms of workers. As well as worker exploitation, outsourcing is associated with risks to patients (one 2016 study found that the risk of contracting MRSA is 50% higher in wards where cleaning services have been outsourced). The Coronavirus Pandemic has repeatedly highlighted how privatisation does not work: this is especially evident from the Test and Trace system run by Serco that is failing to make enough contacts.

It is suggested in the policy paper that it may take up to three years for these reforms to be implemented. However, in the interim period, NHS Trusts will continue to look to make financial savings as the establishment of Wholly Owned Subsidiaries is one way they will do this. GMB therefore requests that no further Wholly Owned Subsidiary applications should be granted, a request that has to date been denied by health ministers.

Conclusion

The problems associated with Wholly Owned Subsidiaries in the NHS are borne – at least in part – out of systemic underfunding of the NHS. At the same time, Trusts and the Government as the NHS’s main funder to protect standards for patients and workers. On the basis of the information available, it seems likely that both the status quo and the proposed changes will create incentives to weaken coverage of the Agenda for Change agreement. We urge the Treasury to reconsider and consult closely with NHS trade unions on its next steps.