

To: 

- chief finance officers of NHS providers
- chief finance officers of ICBs

cc. 

- audit committee chairs of ICBs
- NHS England regional directors and regional directors of finance

NHS England  
Wellington House  
133-155 Waterloo Road  
London  
SE1 8UG

25 April 2024

Dear chief finance officer,

## Payments to NHS charities

In November 2023 HM Treasury's health and social care team declined to grant retrospective approval for payments made by 2 NHS foundation trusts of £5.8 million and £9 million to their associated hospital charities following engagement with the Chief Secretary to the Treasury.

Following the Chief Secretary's judgement on the retrospective approval request for these cases, NHS England regional teams have formally written to these trusts to inform them of the Chief Secretary's decision and that further non-compliance may lead to NHS England considering use of its regulatory powers.

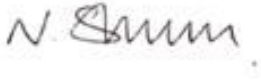
In declining to give approval for these payments, HM Treasury described "the Chief Secretary's view is that he would not have approved it at the time if it had come to HMT as it was an attempt to circumvent capital expenditure rules which exist to ensure the most effective allocation of resources within systems".

This is not a matter of legal powers for making payments. This concerns the arrangements for regularity, ultimately determined by HM Treasury, which set an overarching framework. Payments termed 'grants' to NHS charities which are not the purchase of goods or services may fall under the definition of special payments in Managing Public Money and guidance should be sought. Given the Chief Secretary's previous decision in this area, such payments may also be considered contentious. Transactions of this nature may therefore require approval from HM Treasury so should not be entered into prior to consultation. HM Treasury's Managing Public Money is clear that "the Treasury does not condemn all special payments out of hand" (paragraph A4.13.9) but also that "Treasury approval shall be sought before the offer of the special payment is made" (paragraph A4.13.5) and in referring to a summary of types of special payments, says "if [an entity] is in doubt, it is usually better to consult the Treasury."

We are not expecting these transactions to occur. For 2023/24 and into 2024/25 and beyond, if your trust is considering or has completed a transaction with an NHS charity of this nature, please can you contact your regional team as well as [england.assurance@nhs.net](mailto:england.assurance@nhs.net) at the earliest opportunity.

I hope this letter is helpful in setting out our response to this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Khashu'.

**Nikhil Khashu**

Deputy Chief Financial Officer – Operational Finance  
NHS England