



Classification: Official

Publication approval reference: PAR649

18 August 2021

To:

- NHS regional directors and finance directors, NHS England and NHS Improvement
- Accountable officers of clinical commissioning groups
- Chief executives and directors of finance, NHS trusts/NHS foundation trusts

Dear Colleagues,

NHS property companies: Occupancy agreements and payment of charges

The Department of Health & Social Care (DHSC) and NHS England and Improvement wrote to all NHS occupiers of NHS Property Services Limited (NHSPS) and Community Health Partnerships (CHP) properties on 24 February 2020, regarding the challenges highlighted at the Public Accounts Committee in November 2019. The communication highlighted a number of actions required by NHSPS, CHP and NHS occupants of properties under NHSPS and CHP management. The debt position of the two property companies has now been stabilised and we are writing to NHS occupants to seek continued action in this area.

Debt

All occupants are expected to have already agreed and paid their annual charging schedules for 2020/21 with NHSPS.

All undisputed amounts invoiced by the companies should be paid within the normal 30 days expected of government entities.

The companies and NHS-body debtors are asked to agree pre-2021/22 balances as soon as practicable and to approach this pragmatically. Disputes will be referred to the arbitration process jointly sponsored by NHS England and NHS Improvement and DHSC.

Occupancy documents

As indicated in our previous communication, NHSPS, the DHSC and NHS England and NHS Improvement have developed in collaboration three standard documents

for use by NHS tenants of NHSPS properties that are not already documented. Standard documents are already available for occupancies of CHP buildings.

The three occupancy documents are the NHS Rental Agreement Letter (RAL), the NHS Memorandum of Terms of Occupation (MOTO) and the NHS Standard Lease and are available at the following links:

- https://www.property.nhs.uk/media/2788/nhsps_rental-agreement-letter_template_2020.pdf
- https://www.property.nhs.uk/media/2787/nhsps_memorandum-of-terms-of-occupation_template_2020.pdf
- [nhsps-provider-lease-template.pdf](#) (property.nhs.uk)

The intention is that these documents should be used with minimal adjustments in all instances where the occupancy has not yet been documented. NHS tenants are required to fully engage with NHSPS by December 2021 to work through their occupations and complete the signing of documents for their occupancies.

Completion should be based on the occupancy details and charges agreed with NHSPS; and NHSPS will be expected to support the process and ensure charges are materially correct through the check in process to agree the annual charging statements. The link below provides details on the recent NHSPS webinar on commissioning and occupation (<https://www.property.nhs.uk/news-insight/webinars/commissioning-and-property-occupation/>) which set out the benefits to the occupiers of signing their occupancy documentation. These include transparency, clarity, accuracy of charges and avoidance of disputes.

Occupation change notice

Given the importance of clarifying the terms of occupancy, we would like to emphasise the requirement for occupiers to complete the occupation change notice (OCN) process¹ where changes are made to help ensure bills can be accurately provided.

Commissioning pack

NHSPS has produced a commissioning pack working with NHS England and NHS Improvement which can be used to support commissioning of services from a particular location. The benefits of the pack were highlighted at the recent NHSPS

¹ <https://www.property.nhs.uk/property/report-a-change-to-your-occupancy/>

webinar (see link above), and will help commissioners provide greater transparency, and precision when seeking tenders for provision of NHS services.

Direct payments of GP reimbursable costs

Rent, rates, water and clinical waste are reimbursable costs to GP practices under the Premises Cost Directions 2013. Both NHSPS and CHP have been working with a number of local commissioners to arrange direct payment from commissioners to the property companies. This has produced a number of benefits including greater clarity for commissioners on GP reimbursable costs, ensuring funds remains within the NHS family and greater efficiency through reduction in financial transactions. This has been supported by NHS England and NHS Improvement since September 2019.

Commissioners are encouraged to work with GP practices and the property companies to roll this out more widely. Given the clear advantages set out above, it is now policy, that all new occupancies within the property companies buildings (where procurement has not started) should be commissioned on the basis of direct payments as per the conditions of Section 52 of the Premises Cost Directions. Arrangements for this should be put in place prior to the occupancy commencing.

Reimbursement of management fee for reimbursable costs

Both CHP and NHSPS charge a management fee for certain reimbursable costs; where these are being charged, these should also be included in the reimbursable amount paid by the commissioner and it is therefore important that these costs are fully agreed and understood before agreeing terms.

If you have any queries on the matters addressed in this letter, please direct them to companiesfinance@dhsc.gov.uk in the first instance.

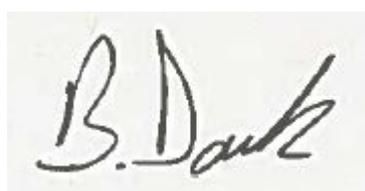
Yours faithfully,



Steve Oldfield

Chief Commercial Officer

Department of Health and Social Care



Blake Dark

NHS Interim Chief Commercial Officer

NHS England and NHS Improvement