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3rd October 2012

Dear Neil,

Contract Management of Medical Services

Thank you for the final version of this report which I understand you are due to publish shortly. We agreed that it would be helpful for the Department to provide response to the findings and provide an update on progress on your recommendations, and this is set out below.

The report highlights specific areas where National Audit Office believes that DWP need to make improvements:

- The Department has not sought adequate financial redress for under-performance
- Earlier contract management had lacked vigour
- Previous Governance arrangements required strengthening
- The accuracy of forecasting data and the apparent lack of impacting the consequences of policy change hinder the Department's efforts to manage under performance
- The Department's reliance on a sole national provider

It should be noted that almost all of the NAO findings are similar to those found by the Department's own Internal Audit function during their audit of Medical Services Contract Management in 2011. I would argue that this underlines the fact that DWP had already recognised that improvements could be made.

The Department generally accepts these NAO views although given the progress on all but one of the areas outlined in the recommendations feels that more credit could be given for the progress made.

In the report you provided a series of recommendations and the following sets out the DWP view and progress on activity:

To strengthen existing governance arrangements

a. The Department needs to build on the work it has undertaken over the last few months to ensure that the principles of effective governance are adhered to in practice. The Risk Assurance Division found weaknesses in the operation of governance arrangements noting uncertainty of roles and responsibilities, poor record-keeping and irregular sitting of the Executive Management Board.

The governance arrangements for this contract were reviewed and amended in early 2012. A further review that takes account of changes introduced with the introduction of Personal Independence Payments took place through July and August. Revised governance arrangements will be introduced shortly.

b. The Department should consider the costs and benefits of drawing on the Provider Assurance Team model for the review of medical services providers, working in partnership with Department medical expertise. There is an opportunity for the Department to strengthen the oversight of aspects of the quality assurance process and the validation of key performance data used to support assessments of performance and invoicing. The proposal to increase the number of medical services providers increases risks linked to IT and data security, service delivery consistency and financial procedures.

The Department accepts that there is merit in exploring the Provider Assurance Team model for this contract. Internal benchmarking on the assurance levels required for this contract and the future Personal Independence Payments contracts is taking place prior to a detailed review of what assurance model will work best. We expect this work to be complete by December 2012.

c. The Department should revise the Executive Management Board's risk register to comply with the risk management standard outlined in the Department's Commercial Risk Management Guide. Risk registers that we reviewed do not adequately assess the likelihood and impact of each risk or what mitigations might need to be applied.

The Department accepts this recommendation and will review the Executive Management Board's risk register alongside a wider review of Risk Management in Medical Services and the review of governance. We expect this work to be complete by November 2012.

d. The Department's change control process should document in a single place the rationale and likely delivery impact and cost of future proposed changes. The Risk Assurance Division identified an absence of documentation supporting options appraisal, risk assessment and rationale for the decision to waive service credits.

Although the Department accepts this recommendation in principle, we intend to explore further the feasibility of documenting in a single place the rationale and likely delivery impact and cost of future proposed changes. This is a large and complex policy area with significant welfare reform activity. At the same time it is a large delivery contract that processes significant volumes. Change can range from minor process to major welfare reform and as such there might not be a single simple solution. DWP also believe there has been significant improvement over the last 12 months. Change controls have been strengthened. Options analysis is given greater consideration; decisions are taken after stakeholder engagement and through appropriate governance. Contract change is also impacted against the contract and referenced to specific clause(s). All contractual change now includes legal consultation. There is currently a review of the change process taking place. This review will recommend the processes to support the change process and is likely to be complete by December 2012.

To improve performance monitoring

e. The Department needs to develop processes to validate key performance information supplied by Atos Healthcare. *Our recommendation in relation to Provider Assurance Teams is also relevant here. We have identified the failure to verify invoices supplied by Atos Healthcare as a significant control weakness. There is also an opportunity to review the flow of information in support of a consistent understanding of contract health across the Department.*

The Department accepts this recommendation and will consider appropriate and proportionate systems to validate performance information e.g. the possibility of a random, low % based check of key metrics. This will be considered alongside the wider review of our validation requirements. However, DWP believe that we have addressed the significant control weakness identified previously through a system of verification of invoices.

f. The Department should enforce the available financial levers to manage performance. *Despite poor performance, the Department has applied only 10 per cent of service credits due.*

The Department does not agree with the NAO view of how financial levers were applied. In periods where service credits were applied due to failure to meet non-quality related targets because of volumes and turnaround of cases DWP and Atos followed the agreed contractual process of discussing the impact of changed requirements and then taking a reasonable approach to application. In addition the contract incentivises the provider to 'earn back' financial remedies over the following three months rather than encouraging them to 'write off' poor performance. However, prior to the NAO report we had already planned to significantly amend the process of how service credits are considered. A monthly Board chaired by DWP with senior attendees considers performance, mitigation and the application of service credits. This has brought additional visibility and senior attention to the process. Service

Credit activity from December 2012 to date illustrates that where no acceptable mitigation exists, DWP apply appropriate financial remedies.

The report specifically mentions the two periods of service credit suspension. These relate to a time when the impact of new policy was unknown – at the time we were introducing of ESA, a revised Work Capability Assessment, and implementing the findings from the Harrington review. As a result the mitigations agreed were subjective. We believe that the suspension of service credits was a reasonable decision and an option available to us through the terms of the contract.

g. The Department should explore cost effective ways of strengthening its capability to independently model the relationship between service requirements (assessment volumes and content) and costs so that it is in a better position to negotiate service levels. The Department has elected to temporarily suspend the service credit regime on two occasions following mitigation claims by Atos Healthcare linked to variance in referral volumes and changes in assessment specification.

The Department accepts this recommendation and more innovative options of incentivising performance in the face of fluctuating volumes is being explored through a contract review.

h. The Department should consider tightening performance requirements linked to quality of medical assessments. The current target of no more than 5 per cent of reports being graded as 'unsatisfactory' is not sufficiently challenging and allows the contractor to deliver a significant number of assessments before financial penalties become due. The contractor has met this target in all but two months.

The Department believe that a 5 per cent target is already challenging and this is supported by the fact that Atos are not always able to meet it. Substantial work is undertaken to ensure quality consistently remains at a high level. However, the Department also recognise the need to continually improve and we are considering what steps would be required to move it closer to 4 per cent.

i. As part of its on-going work with the Tribunal Service, the Department needs to put in place arrangements to better understand why decisions are being overturned at appeal. Without adequate information on successful appeals the Department cannot target remedial action cost-effectively.

The Department accepts this recommendation and was well advanced in discussions with Her Majesties Courts and Tribunal Service (HMCTS) during the period of the NAO review. From 9 July, all cases where a DWP decision is overturned by a First Tier Tribunal will be returned with information from the Chair on the main reason for the decision. The early information on returned cases will be considered within the Department before further activity. Although the quality of medical assessment may be a factor in some appeal outcomes there was currently

no evidence that suggested it was the main factor. Additionally, where the Tribunal believe there is a substantial error in the medical report there is a long standing process for returning such reports to Atos.

To strengthen the Department's commercial strategy

j. The Department needs to assess the costs and benefits of different commercial options on a transparent and consistent framework. *The options paper presented to the Minister in September 2010 did not disclose that Atos Healthcare had achieved agreed service levels because of a major policy change that had reduced the contractor's workload.*

In advance of the NAO review the Department reviewed its commercial strategy for Health and Disability Assessments. This resulted in the creation of the Health and Disability Assessment Framework. Organisations bid to become a provider on the framework and call off contracts will be let from the framework. The framework is based on sub national 'Lots' so there is less risk of over reliance on large national contracts.

k. The Department needs to give greater consideration to how changes in operational delivery are likely to impact on referral volumes. *Forecasting inaccuracy undermines the Department's negotiating position in discussions around performance and service credit application.*

The Department accepts this recommendation and since April has invested significant time and effort jointly with Atos Healthcare devising and agreeing forecasts which will be reviewed on a regular basis for accuracy. However the Department maintains that forecasts although important can never be absolute so is looking to the contract review to find ways to incentivise delivery even when volumes are higher than expected.

l. The Department needs to reduce barriers to entering the medical services market. *The incumbent supplier has significant cost advantages in, for example, the availability of estate and IT infrastructure. To address these structural advantages, the Department needs to implement strategic measures which promote a more level playing field.*

The Department had already implemented this prior to the NAO review through the procurement of Personal Independence Payments. In the delivery of this contract, providers will supply estate and the Department will provide IT infrastructure. This will also be a major consideration for the strategy for the replacement of the Atos Contract which expires in 2015.

In addition to the recommendations the report comments on other issues.

Strategic decision to extend contract to incorporate IBR (page 31, para 4.3, Page 32 4.5)

The NAO observation is that there was no detailed appraisal of Atos' ability to take on this additional work, or any assessment of their past performance. This implies that there were viable alternatives to Atos at the time this was under discussion. It was the view of the Department that there was no capacity and capability in market to deliver the outcomes required. Whilst the report is factually correct the Department believe that the commercial decision made at the time was appropriate. Since that time we have developed the market to a significant extent to the point where the recently agreed DWP framework created has ten potential providers of health care and disability services on it.

Calculation of Value for Money claims (Page 32, para 4.6, 4.7, Page 33 Figure 11)

Whilst criticising the Department for the identification of value for money savings which emanated from Policy initiatives all of these should be recognised as Departmental cash savings – hence why the reported savings are as stated. Our approach is in keeping with how the Department and other government departments report VFM savings.

I would be very happy to discuss any of this further with you.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Driver". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Mike Driver

Interim Finance Director General, Department for Work and Pensions