

NHS Wholly Owned Subsidiary Companies

UNISON Parliamentary briefing, January 2018

The NHS continues to face unprecedented financial pressures. Some trusts are seeking to save money by creating wholly owned subsidiary companies to deliver services such as estates and facilities. This is an organisation set up at arm's length but still owned by the trust. It means that those services currently provided in-house will be provided by a separate company that will employ staff who currently work for the NHS.

Trusts claim that money will be saved by exploiting a tax loophole, but the major savings will come from employing new staff on non-NHS terms and conditions with no access to the NHS Pension Scheme. UNISON believes this is a form of backdoor privatisation, with direct consequences for healthcare staff and potentially damaging ramifications for the NHS.

Where is this happening?

Most regions of England are now affected by this new drive to set up wholly owned companies. UNISON is raising particular concerns in the South West and Yorkshire and Humberside where a significant number of trusts are proposing to form wholly owned companies and to transfer hundreds of staff outside the NHS. The trusts are all paying "advisers" to assist them, resulting in money leaking away from patient care.

QE Facilities, itself a subsidiary of Gateshead Healthcare NHS FT, has been active in pushing this initiative. No evidence has been seen to justify their claimed expertise and there are worrying parallels with the role played by the now disbanded Strategic Projects Team, which spent a number of years cheerleading for various forms of privatisation in different parts of England.

UNISON is also contesting the formation of a wholly owned company by Airedale NHS FT, with a number of other trusts looking to follow suit elsewhere in Yorkshire and Humberside.

One of the trusts in the South West, Yeovil District Hospital NHS FT, has refused to consult with its staff representatives on the decision to form a wholly owned subsidiary and will not disclose its business case, despite the obligations placed on trusts by the NHS Constitution. The trust is currently rated by the CQC as "Requires Improvement" – UNISON is clear that this is not the way to improve.

The new wholly owned subsidiary companies will deliver facilities management and a range of different services varying from trust to trust. There are already examples in the NHS of this being done as well as examples over many years from local government and, more recently, universities. The track record to date is extremely mixed and UNISON is concerned that the trusts involved have done far too little to consider the potential risks involved.

Why is it such a problem?

Long-term protection of pay and pensions for those transferring to new companies is weak. The trusts plan to employ new staff on less favourable contracts with no access to the NHS Pension Scheme. But we know from experience that this could have an impact on transferring staff as well, as all it takes is one change to the way the company operates and existing staff could find themselves at risk too. And once such companies have been set up it is far easier for trusts to transfer other non-clinical staff and services in future.

UNISON believes this is yet another fragmentation of our NHS and however it is dressed up it is still outsourcing. One of the benefits claimed is that it will enable greater staffing flexibility and will leave trusts free to focus more on delivering healthcare. But this ignores the fact that all staff are part of one NHS team that delivers for patients and that works best when it is pulling together for the same organisation.

There is a consensus across the NHS that a two-tier workforce is not in anyone's interests. The national pay system under Agenda for Change is a strength that should not be bypassed by trusts that feel unable to use the flexibilities it provides. UNISON believes that strong management will always work in partnership and consult properly with staff to find better solutions, rather than attacking workforce terms and conditions as a counterproductive shortcut.

Great claims are being made about VAT savings, with trusts able to pay less tax than they currently do by setting up wholly owned subsidiary companies. The trusts are exploiting guidance issued years ago which was designed to make outsourcing more attractive, but the Department of Health has issued more recent advice that the NHS should not engage in tax avoidance. After all, this is just public money going round in circles: these savings do not bring extra income into public services; they come out of the general pot and are lost somewhere else. This is also a loophole that could be closed in future depriving the trusts of any tax savings.

Past experience of privatisation in the NHS shows that any savings from these exercises will be entirely short term, if indeed they materialise at all. Workforce shortages are already a very real problem in the NHS and anything that affects morale further or makes the NHS a less attractive place to work will only escalate the problem, costing the NHS – and individual trusts – more in the longer term.

To summarise, there is no evidence that such plans will improve efficiency or productivity; rather they exploit a tax loophole and seek to exploit the future workforce. It is another attempt to undermine NHS staff – which is particularly notable in the South West, where a group of trusts formed a cartel in 2012 to suppress pay (until UNISON forced them to back down).

What can politicians do?

In a number of instances trusts have failed to go through the correct procedures in making the case for change or have failed to ensure transparency. Some trusts may also be failing to conform to their obligations to consult staff under the NHS Constitution.

UNISON is therefore calling on MPs in those areas affected to work alongside their local UNISON branches to challenge trusts over their decisions to set up wholly owned subsidiary companies.

UNISON is lobbying the national NHS bodies to clamp down on this behaviour by trusts and calls on politicians to do likewise.

MPs and Peers are also asked to table questions in Parliament to gain more information on developments and to press the government on what, if any, action they will take to protect staff and the wider NHS. UNISON can assist with the detail of any such questions.

MPs can sign [Early Day Motion 802](#) to show support for UNISON's campaign.

Further information

To discuss in detail or to set up a meeting, please contact:

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Alternatively, visit the [UNISON website](#) for further information.