



DEBATE PACK

Number CDP-2018-0091, 20 April 2018

E-petition relating to the privatisation of NHS services

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Summary

This House of Commons Library Debate Pack briefing has been prepared in advance of a debate on [E-Petition 205106](#) which calls for an end to “the privatisation of NHS services”. This will be led by Mike Hill MP and will take place in Westminster Hall on Monday 23rd April at 4.30pm. This Debate Pack contains background information, parliamentary and press material, as well as further reading suggestions which Members may find useful when preparing for this debate.

The petition which prompted this debate is entitled “[Stop the privatisation of NHS services](#)”, and says:

We call for a ban on the outsourcing (privatisation) of NHS services, and stop the renewal of any outsourcing contracts already signed. Companies should not be profiteering from NHS contracts, when every pound of NHS budgets is desperately needed for more doctors and nurses, and to pay them more.

Research by Bain & Company published by the Financial Times in January 2017, found that private-sector companies had been invited to bid for 14 per cent more NHS contracts in the 12 months to August 2016 than just a year previously. In March 2017 the Financial Times also reported of the extra £2bn given to the NHS in 2014 to try and bolster NHS services, according to data analysis carried out by the Health Foundation, an independent charity, only about half this extra money was spent in the NHS.

This has, at the time of publication of this debate pack, obtained around 237,000 signatures. The Government’s response can be found [on the petition’s webpage](#).

The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

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1. Background

1.1 Definitions

Competing definitions exist for what constitutes privatisation within the NHS. The petitioners in this case cite ‘outsourcing’ of patient services to private companies as evidence of privatisation. Such a focus can exclude other potential measures of the involvement of private companies in the delivery of NHS services – this can range from the provision of Clinical Commissioning Group (CCG) back office functions to catering and laundry services in hospitals. The sale of NHS assets or businesses to private organisations may also be interpreted as evidence of privatisation. The British Medical Association (BMA) has said that it monitors several indicators to track the extent of what they would determine to be privatisation within the NHS. These include:

- Spend on provision of healthcare services split by NHS, independent sector, voluntary sector and local authorities (England)
- Funding for independent acute medical/surgical hospitals and clinics from NHS patients (UK)
- NHS hospital income from private patients (UK)
- Number of APMS (alternative provider medical services) contracts and patients registered with APMS practices (England)
- Financial protection from the costs of healthcare (UK)
- Private medical insurance and OOP (out-of-pocket) payments (UK).¹

In 1995 a report published by the World Health Organisation (WHO) [defined privatisation](#) as: “...a process in which non-government actors become increasingly involved in the financing and/or provision of health care services.” The report, however, also noted that the development of an internal market within a public sector body may not in itself be evidence of privatisation

In general terms the debate often focuses the extent to which NHS Commissioners purchase health services from non-NHS providers. This measure of spending can be used to assess the extent of any growth in the provision of NHS services by independent organisations. This is the first of the indicators of ‘privatisation’ highlighted by the BMA, and is also the focus of the petition.

1.2 The purchase of healthcare from non-NHS providers

The purchasing of healthcare from private sector providers by NHS commissioners has grown from 4.4% of NHS resource expenditure in 2009/10 to 7.7% in 2016/17. In cash terms, this is an increase from £4.1bn in 2009/10 to £9bn in 2016/17.

¹ BMA, [Privatisation and independent sector provision of NHS healthcare](#), April 2016

NHS PURCHASE OF HEALTH CARE FROM PRIVATE SECTOR PROVIDERS

England

	Expenditure on private providers (£ billion)	Expenditure on private providers as % of total NHS resource expenditure
2006/07	2.2	2.8%
2007/08	2.9	3.5%
2008/09	3.4	3.8%
2009/10	4.1	4.4%
2010/11	4.8	4.9%
2011/12	5.3	5.3%
2012/13	5.7	5.5%
2013/14	6.4	6.0%
2014/15	8.1	7.3%
2015/16	8.8	7.7%
2016/17	9.0	7.7%

Sources:

[2006/07 to 2008/09: HC Deb, 26 April 2011, C116W](#)

[2009/10 to 2013/14 HL PQ 5389, 11 March 2015](#)

[2014/15 onwards DH Annual Reports and Accounts](#)

The health think tank the King's Fund has assessed the development of spending on non-NHS providers in attempt to provide some context to the debate around privatisation. Examining the latest data in August 2017, the Kings Fund [said](#):

Analysis of the Department of Health's published accounts shows that the share of spending by NHS commissioners on the private sector was 7.7 per cent of the budget in 2016/17. This has increased slightly from 7.3 per cent in 2014/15, although changes in data definitions mean this is not strictly a like-for-like comparison. Total spending by NHS commissioners on non-NHS organisations (including the voluntary sector and local authorities) was 10.9 per cent, up from 10.7 per cent in 2015/16.

Due to changes in definitions, it is difficult to precisely measure changes in the amount spent on private or non-NHS organisations over time. However, a trend of small incremental rises in spending on private provision is consistent with longer-term gradual increases over the past 15 years. The extent of private sector-commissioned services also varies between different areas of care. For example, evidence suggests that spending on private providers between 2010/11 and 2012/13 increased more quickly in community services and mental health than in other services.

The Department of Health's accounts also show that NHS providers spent around £1 billion on services from non-NHS organisations. This includes an increase in outsourcing elective hospital treatment in order to deliver waiting times targets. NHS Improvement reports that spending on outsourcing elective work to the private sector rose significantly from £241 million in 2015/16 to £381 million in 2016/17.

Data on spending on private providers is only available from 2006/07 onwards. A longer time series is available on purchase of care from non-NHS providers, which includes local authorities and the voluntary sector as well as independent sector providers. In 1997/98, 3.2% of the NHS resource budget was spent purchasing healthcare from non-NHS providers. By 2016/17 this had risen to 10.9%.

NHS PURCHASE OF HEALTH CARE FROM NON-NHS SECTOR PROVIDERS			
England			
	Expenditure on non-NHS providers (£ billion)	Expenditure on non-NHS providers as % of total NHS resource expenditure	
1997/98	1.1	3.2%	
2002/03	1.9	3.3%	
2007/08	5.7	6.7%	
2008/09	6.4	7.0%	
2009/10	7.4	7.4%	
2010/11	8.4	8.5%	
2011/12	8.4	8.9%	
2012/13	9.5	9.5%	
2013/14	10.0	9.5%	
2014/15	10.3	9.5%	
2015/16	12.2	10.7%	
2016/17	12.7	10.9%	

Sources:

1997/98 - 2001/02: HC Deb, 17 March 2008, c747w

2002/03 - 2010/11 Summarised Accounts of the Strategic Health Authorities, Primary Care Trusts and NHS Trusts

2011/12 - 2012/13 DH data presented in Nuffield Trust Into the Red report

2013/14 onwards DH annual reports

1.3 Outsourced services

As noted above, spending on the provision of health services by non-NHS providers can vary significantly by service area. In its 2014 report, [Into the red? The state of the NHS' finances](#), the Nuffield Trust found that at the beginning of the decade spending on private providers of acute care slowed whilst spending on non-NHS independent providers in community services and mental health increased:

Between 2010/11 and 2012/13, spending on acute care provided by independent sector providers (independent sector treatment centres and other private providers) increased by an annual average of 6.7 per cent, from £1.30 billion to £1.58 billion. In 2012/13, the growth in spending on NHS-funded care delivered by independent sector hospitals halted, with PCTs spending £14 million less in real terms compared with 2011/12.

But spending on community and mental health services has continued to rise. The independent sector has become a more important provider of NHS community and mental health services. While expenditure by clinical commissioning groups in 2013/14 is not

yet available, the 2012/13 data by PCT show that this upward trend in expenditure on the independent sector continued. Spending growth on non-NHS providers of community and mental health services outpaces spending increases for NHS trusts. These are now the major areas for non-NHS providers. Between 2010/11 and 2012/13, PCT expenditure on NHS-provided community services fell while spending on care provided by non-NHS providers increased rapidly. One pound in every five spent by PCTs on community health services in 2012/13 was spent on care provided by independent sector providers, an increase of 34 per cent in one year alone.

Community services

The BMA has monitored the extent to which the NHS commissions care from private providers. In 2017 it reported in its publication [Hidden figures: private care in the NHS](#) that 44% of total spending by CCGs on independent service provision was spent on community services. This was argued to represent a 271% increase in spending on independent community services since 2010–11. It should be noted however, that the BMA data is based on information accumulated from 24 of England’s 195 CCGs.²

It is argued by the BMA that independent providers are focussing their attention on community services and acute care because:

either the independent sector is more interested in offering specific services (presumably those which offer the best opportunity to generate revenue) and is bidding for (and winning) more of those contracts, or that the NHS is more inclined to award contracts to the independent sector for several specific types of service, perhaps those where the NHS structures are spread the thinnest.³

This feature of independent provision is, according to the BMAs analysis, combined with a reliance by the NHS on a small number of providers. The BMA highlighted BMI and Spire has independent providers that hold contracts with a large number of CCGs and said in their analysis that both organisations rely on the NHS for a substantial amount of their income. Based on a survey of 70% of CCGs in 2015, Monitor published analysis in their report, [Commissioning better community services for NHS patients](#), which showed that 83% of community services contracts were provided by NHS organisations and that independent providers other than the third sector held 7% of the contracts. It should be noted that Monitor’s data did not include contracts commissioned under the any qualified provider provisions, but they said they estimated that “a small proportion of community services are commissioned under AQP (any qualified provider) contracts.”⁴

1.4 Policy developments

The creation of the NHS internal market in 1991, which separated the purchasers of healthcare (commissioners) from providers of healthcare, including the newly created NHS hospital trusts, allowed for the introduction of greater private sector provision of healthcare services. Commissioners had the choice to purchase from NHS trusts or private

² BMA, [Hidden figures: private care in the NHS](#), 2017, p 3

³ *Ibid.*

⁴ Monitor 2015, p 12 footnote 15

providers, although the involvement of the private sector more limited in the early years of the internal market.

The Labour Government (1997-2010) implemented further reforms to enact a 'patient choice' agenda, giving patients the ability to choose from 'any willing provider' for treatments, including private sector providers. Some of these reforms were outlined in a 2010 Civitas study, [The Impact of the NHS Market](#):

The reformed market consisted of two separate mechanisms: patient choice of provider for elective treatment, and the purchasing of healthcare services by commissioners. Secondary and specialist care providers were intended to compete both to attract individual patients for elective services and for acute contracts with Primary Care Trusts (PCTs) and general practitioners (who could once again volunteer to secure such care on behalf of their patient lists).

[...]

Patients were initially given a choice of at least four elective care providers, one of which was to be private, along with information on location and waiting times. They would be able to arrange these appointments online (beginning in 2005) through a national, internet-based Choose and Book system. By 2008, patients would be able to choose from any willing NHS, private or independent provider registered with the Health Care Commission (now Care Quality Commission).

[...]

Another change was seen in centrally-led contracting with Independent Sector Treatment Centres (ISTCs)—for profit healthcare providers paid in advance to carry out a certain number of NHS operations throughout England. Eventually, PCTs and GPs would be able to contract with them locally as well. ISTCs, though providing only a small percentage of elective care nationally, were intended to further stimulate competition and reduce waiting lists for elective surgery; the theory was that patients would be attracted by the option of seeing a private provider, and the ISTCs would carry out high numbers of simple surgeries quickly and for reduced costs.⁵

Despite the patient choice agenda, there was arguably limited engagement with private providers through patient choice, as set out in the King's Fund 2011 report, *New Labour's Market Reforms*:

A more detailed evaluation of patient choice in four areas of England found that, by January 2009, although now entitled to a choice of any NHS or registered non-NHS provider, most patients who were offered a choice said they had been given between two and five options, with the inclusion of a privately run hospital in only 8 per cent of choices... Interviews with GPs and patients in the same study revealed that GPs often offered choice in a tokenistic way, rarely initiating a discussion of the merits (or otherwise) of the options available.⁶

The 2010-15 Coalition Government continued the emphasis on patient choice, as well as focusing on increased competition between providers to improve quality, in its 2010 White Paper, [Equity and Excellence: Liberating the NHS](#). This was the basis of the *Health and Social Care Act 2012*, which

⁵ Civitas, [The Impact of the NHS Market](#), February 2010, p12-13

⁶ The King's Fund, [New Labour's Market Reforms: Patient Choice of Hospital](#), 2011

has had a significant impact on the debate around outsourcing and private provision of healthcare.

Health and Social Care Act 2012

Part 3 of the *Health and Social Care Act 2012* provides the framework for choice and competition in the provision of NHS services. In particular, the 2012 Act allows the Department of Health and Social Care to set regulations giving Monitor (now part of NHS Improvement) as the new sector regulator for the NHS, the power to investigate and remedy anti-competitive behaviour by CCGs or NHS England. The key provisions of the 2012 Act are set out in a Department of Health factsheet on [choice and competition](#). In particular this noted that:

Monitor will be able to address abuses and restrictions that prevent competition and could lead to poorer care for patients. The Act does not change EU or UK competition [under the Competition Act 1998] and procurement legislation [Public Contract Regulations 2006]. What the Act does do is create a framework in which competition (on quality, not price) can operate, including appropriate safeguards.

The Department of Health publication [Sector regulation: update on plans for consultation and implementation](#) (July 2012) provided some further background. This explained that the 2012 Act creates a framework in which competition can operate, with safeguards, and repeats the assurance that the Act does not change EU or UK competition and procurement legislation. In particular it noted that Monitor are able to address abuses and restrictions that prevent competition and could lead to poorer care for patients:

What will be different in the new system, and why?

Our aim is for patients to be able to choose to receive their services, and for services to be commissioned, from the best possible providers. The Act therefore creates a framework in which choice and competition (on quality, not price) can operate, with appropriate safeguards in place. The Act does not change EU or UK competition law, or extend the previous Government's policy of patient choice of any qualified provider. Instead, our approach is to focus on protecting patients' rights to choice under the NHS Constitution, ensuring good value for taxpayers' money, and addressing abuses that act against patients' interests.

The Act establishes Monitor as a specialist sector regulator for healthcare, with concurrent powers, with the Office of Fair Trading [now part of the Competition and Mergers Authority - CMA], to apply competition law to providers in the healthcare sector. Competition law exists to protect the interests of patients (and consumers more generally) and the Act does not extend the scope of its application to the NHS. Monitor's responsibility for applying competition law in the healthcare sector will help to ensure that the law is only applied in the interests of patients. For example, Monitor will be better placed than the Office of Fair Trading [CMA] to identify overriding patient benefits involved in service arrangements which have the effect of restricting competition, and therefore to avoid competition law being applied inappropriately

Clinical commissioners, supported by the NHSCB [now known as NHS England], will be in charge of deciding when and how to use competition as a means of improving services and enabling patients

to have choice and control in their care (see Figure 2). They will work within a framework of rules, designed to ensure transparency and accountability, which includes guidance from the NHSCB [NHS England] and regulations set by the Secretary of State and enforced by Monitor.⁷

[Section 147](#) of the *Health and Social Care Act 2012* – the Secretary of State’s duty as respects variation in provision of health services - is intended to ensure that the Secretary of State does not deliberately favour any particular sector, such as the public, private or voluntary sector. Specifically, this section prohibits the Secretary of State from seeking to increase or decrease the proportion of NHS healthcare services that are delivered by a particular description of providers. The Act provides for similar duties on Monitor (now part of NHS Improvement) and NHS England.

Some commentators have argued that following these reforms, particularly the role of NHS Improvement as a sector regulator, and the introduction of the so-called section 75⁸ regulations on competition and procurement, more NHS contracts are being put out to open tender.⁹

The *British Medical Journal* analysed 3,494 contracts awarded between April 2013 and August 2014 that had been disclosed under Freedom of Information requests to 211 clinical commissioning groups (192 responded). In total, non-NHS providers had been awarded 45% of contracts with 55% being awarded to NHS providers (including general practices). Of the 195 contracts that were awarded by competitive tender, private sector providers won 41%, NHS providers won 30%, the voluntary sector won 25% and other types of provider won 4%. CCGs only disclosed the full financial value of 1,349 of the contracts, representing approximately £10bn. Of this amount, NHS providers were awarded contracts worth £8.5bn (85%) while the private sector was awarded contracts worth £490m (5%).¹⁰

A 2014 survey found that more than a quarter of CCG leaders who responded said they had opened NHS services up to because they feared they would fall foul of competition rules if they did not. A fifth of respondents to a *Health Service Journal* survey, carried out with PwC, said their groups’ decisions had been formally challenged under NHS competition regulations.¹¹

1.5 Wholly owned subsidiary companies

Further recent debate on NHS outsourcing has focused on the creation of wholly owned subsidiary companies by foundation trusts. NHS foundation trusts have a degree of operational independence from Government, which

⁷ DH [Sector regulation: update on plans for consultation and implementation](#) (July 2012)

⁸ Section 75 requires commissioners to adhere to good practice in procurement, promote patient choice, and not engage in anti-competitive behaviour.

⁹ NHS contracts 'going to private firms', [Health Service Journal](#), 16 January 2014; "[£5.8bn of NHS work being advertised to private sector](#)", [Financial Times](#), 29 July 2014; '[How much is the government really privatising the NHS?](#)', the [Guardian](#), 15 August 2016; '[Private companies given more chances to win NHS work](#)', FT, 2 January 2017

¹⁰ '[A third of NHS contracts awarded since health act have gone to private sector, BMJ investigation shows](#). [BMJ; 2014;349:g7606](#)

¹¹ "[CCGs open services to competition out of fear of rules](#)", [HSJ](#), 4 April 2014.

allows them to create wholly-owned subsidiaries (companies with no members besides the foundation trust itself).

The national regulator of foundation trusts (FTs), NHS Improvement, is aware of 39 subsidiaries across 27 FTs, consolidated within their accounts as of 31 March 2017. NHS Improvement does not have a record of what these companies do.¹² In answer to a parliamentary question March 2018 the number of subsidiary companies was revised to 42.¹³

The context for the creation of many subsidiaries is the 2015 review into [Productivity in NHS hospitals](#) by Lord Carter of Coles, which recommended driving efficiencies through sharing administrative functions across NHS bodies in an area, although some subsidiaries pre-date the report. A subsidiary may be decided to be the most appropriate vehicle for this.

On 6 March Liz Twist MP, (Labour, Blaydon) led a Westminster Hall debate on the creation of [Wholly Owned Subsidiary Companies](#) by NHS Foundation Trusts. Ms Twist said that the creation of subsidiary companies could allow trusts to save costs by recruiting staff employed in subsidiary companies on terms and conditions less generous than offered by NHS employers, particularly in relation to the provision of NHS pensions. In addition it was argued that trusts have a financial incentive to create subsidiaries as it enables them to reduce their VAT liability.

Members contributing to the debate said that the provision of services such as facilities management are being transferred to subsidiaries. It was argued that that this process risk moving staff who are already comparatively lowly paid on to contracts where their terms conditions are less than those offered to colleagues within the trust.

Responding to the debate for the Government, the Minister for Health Stephen Barclay, said that the legislation to enable the creation of subsidiary companies has been in place since 2006, as wholly owned subsidiaries the companies remain within “the NHS family” and that trusts should have the freedom to make decisions which are best for the management of their organisations. The Minister added that the creation of wholly owned subsidiaries has allowed trusts to provide services in a more commercial fashion but that this could not be regarded as privatisation because they are entirely owned by NHS bodies.

1.6 E-petition 205106 and the Government’s response

[E-Petition 205106](#), which has prompted this debate, says:

We call for a ban on the outsourcing (privatisation) of NHS services, and stop the renewal of any outsourcing contracts already signed. Companies should not be profiteering from NHS contracts, when every pound of NHS budgets is desperately needed for more doctors and nurses, and to pay them more.

¹² [‘Trust subsidiary companies are not ‘VAT scam’, minister says’](#), *Health Service Journal*, 14 November 2017

¹³ PQ 904463 [\[NHS Trusts: Wholly Owned Subsidiary Companies\]](#), 20 March 2018

Research by Bain & Company published by the Financial Times in January 2017, found that private-sector companies had been invited to bid for 14 per cent more NHS contracts in the 12 months to August 2016 than just a year previously. In March 2017 the Financial Times also reported of the extra £2bn given to the NHS in 2014 to try and bolster NHS services, according to data analysis carried out by the Health Foundation, an independent charity, only about half this extra money was spent in the NHS.

The Government has provided a response which, in turn, says:

The vast majority of NHS care has and will continue to be provided by public sector organisations. Patients should be able to access the best treatments based on quality of care not type of provider.

We remain committed to a publicly funded NHS. However, the private sector has always played a vital supporting role in the NHS, for example in building hospitals, in providing facilities management services, in supplying medicines and equipment. Primary care contractors – GPs, dentists, pharmacists – have always been independent contractors and are not NHS employees. The opportunity – not obligation – of NHS commissioners to use private sector healthcare providers in order to support existing NHS-delivered care has played a key role in improving patient choice, and in reducing waiting times. In such cases, private sector contractors have to adhere to the same standards of efficiency, safety and quality as NHS providers do, and for this reason the publicly funded NHS will always remain in the driving seat. We are clear that patients should be able to access the best possible treatments based on quality of care and value for money not the type of provider they receive this care from.

2. Parliamentary material

2.1 Written Parliamentary Questions

- [NHS Property Services: Privatisation](#)

Asked by: Soames, Sir Nicholas | **Party:** Conservative Party

To ask the Secretary of State for Health and Social Care, what recent discussions he has had on (a) complete and (b) partial privatisation of the National Health Service's Property Services.

Answering member: Stephen Barclay | **Party:** Conservative Party |

Department: Department of Health and Social Care

The Government's response to the Naylor Review on the National Health Service Estate confirmed that it has chosen not to change the existing NHS property companies at the current time. NHS Property Services Ltd and Community Health Partnerships Ltd will continue to be limited companies 100% owned by the Secretary of State for Health, to whom they are accountable. The companies will continue to provide the asset ownership and management, facilities management and financing functions that they offer currently.

19 Mar 2018 | Written questions | Answered | House of Commons | 132472

Date tabled: 14 Mar 2018 | **Date for answer:** 19 Mar 2018 | **Date answered:** 19 Mar 2018

- [Coperforma](#)

Asked by: Lucas, Caroline | **Party:** Green Party

To ask the Secretary of State for Health, if he will commission a formal, independent investigation into the outsourcing and performance problems of the Patient Transport Services provided by Coperforma and arms length driver operatives, including an assessment of monies paid to Coperforma and monies paid by the public sector as a result of Coperforma's performance failures; and if he will make a statement.

Answering member: Steve Brine | **Party:** Conservative Party | **Department:** Department of Health and Social Care

The information requested is not collected centrally.

The provision of patient transport services is a matter for local National Health Service commissioners. NHS England has advised that High Weald Havens Clinical Commissioning Group commissioned an independent investigation into these events, which reported in March 2017. Accordingly, there are no plans to undertake a further independent investigation.

16 Jan 2018 | Written questions | Answered | House of Commons | 121517

Date tabled: 08 Jan 2018 | **Date for answer:** 10 Jan 2018 | **Date answered:** 16 Jan 2018

- [Health Services: Contracts](#)

Asked by: Linden, David | **Party:** Scottish National Party

To ask the Secretary of State for Health, whether it is his Department's policy that contracts associated with the formation of Accountable Care Organisations will not be outsourced to the private sector.

Answering member: Steve Brine | **Party:** Conservative Party | **Department:** Department of Health and Social Care

In the very small number of places where local commissioners are running procurements for the award of such contracts, local National Health Service foundation trusts, NHS trusts and general practitioners have been selected as partners for delivery of those contracts.

The selection of an appropriate provider to hold such a contract will continue to be a matter for local NHS commissioners, and those commissioners must make that selection by way of a process which is compliant with the requirements of the Public Contract Regulations 2015. These involve openness, transparency and equal treatment of potential providers.

11 Jan 2018 | Written questions | Answered | House of Commons | 120591

Date tabled: 20 Dec 2017 | **Date for answer:** 08 Jan 2018 | **Date answered:** 11 Jan 2018

- [Patients: Transport](#)

Asked by: Osamor, Kate | **Party:** Labour Party · Cooperative Party

To ask the Secretary of State for Health, whether his Department has made an assessment of the effect of outsourcing patient transport services on the quality of service provided.

Answering member: Steve Brine | **Party:** Conservative Party | **Department:** Department of Health

No such assessments have been made. The provision of appropriate patient transport services is a matter for local National Health Service commissioners.

21 Dec 2017 | Written questions | Answered | House of Commons | 119245

Date tabled: 13 Dec 2017 | **Date for answer:** 18 Dec 2017 | **Date answered:** 21 Dec 2017

- [NHS: VAT](#)

Asked by: Lord Hunt of Kings Heath | **Party:** Labour Party

To ask Her Majesty's Government what action they have taken to ensure that when NHS bodies set up wholly owned subsidiaries in order to claim VAT refunds, NHS staff transferred to those subsidiary companies retain their terms and conditions, including membership of the NHS Pension Scheme.

Answering member: Lord O'Shaughnessy | **Party:** Conservative Party | **Department:** Department of Health

National Health Service organisations are responsible for deciding locally the most appropriate structures they need to deliver services to their patients within available resources, meeting any tax liabilities that may arise. Recent guidance to NHS trusts and foundation trusts from the Department states ‘the only tax advice that the Department deems acceptable is that necessary for the fulfilment of statutory functions and or to assist with compliance with tax rules beyond in house expertise. Tax avoidance schemes should not be entered into under any circumstances.’

Any NHS staff compulsorily transferred to subsidiary companies that may be set up by NHS bodies should, subject to legal advice, be covered by Transfer of Undertaking Protection of Employment legislation, in respect of their terms and conditions of service, and Her Majesty’s Treasury’s New Fair Deal guidance, in respect of their continued access to the NHS Pension Scheme.

NHS Improvement is working with the NHS to ensure adherence to relevant legislation and guidance, as well as encouraging the sharing and adoption of best practice in working with employee representatives and unions on these issues.

Note: HM Treasury’s New Fair Deal guidance requires that NHS employees who transfer compulsorily from a NHS body to an independent organisation retain access to the NHS Pension Scheme in their new employment. This occurs where the function performed by the transferring employees has been outsourced by the provider or the service put to tender by the commissioner.

07 Nov 2017 | Written questions | Answered | House of Lords | HL2440

Date tabled: 24 Oct 2017 | **Date for answer:** 07 Nov 2017 | **Date answered:** 07 Nov 2017

- [NHS Professionals: Privatisation](#)

Asked by: Madders, Justin | **Party:** Labour Party

To ask the Secretary of State for Health, what the costs were of the privatisation process of NHS Professionals.

Answering member: Mr Philip Dunne | **Party:** Conservative Party | **Department:** Department of Health

The Department spent approximately £2.8 million on external advisers’ costs during the sale process for NHS Professionals until the decision was announced on 7 September that NHS Professionals will remain wholly in public ownership. The Government concluded that none of the offers received for NHS Professionals reflected the Company’s growing potential and improved performance.

These costs will be recovered by taking a divided payment from NHS Professionals, so this will not impact on delivering frontline National Health Service services. It is normal practice for limited companies such as NHS Professionals to make dividend payments from their distributable profits to their shareholder, in this case the Department. Sufficient cash will be retained in the company though to ensure its operations and any necessary investment can be properly funded.

18 Sep 2017 | Written questions | Answered | House of Commons | 9708

Date tabled: 11 Sep 2017 | **Date for answer:** 13 Sep 2017 | **Date answered:** 18 Sep 2017

- [NHS Shared Business Services](#)

Asked by: Madders, Justin | **Party:** Labour Party

To ask the Secretary of State for Health, if he will make an assessment of whether NHS Shared Business Services has produced ongoing lower costs for the NHS since its sale.

Answering member: Mr Philip Dunne | **Party:** Conservative Party |

Department: Department of Health

NHS Shared Business Services (SBS) is a joint venture company that is in approximately equal ownership between the Department and the multi-national outsourcing company, SopraSteria. It provides a range of services for National Health Service customers in the following broad areas:

- Finance and Accounting;
- Employment services, including Payroll and
- Procurement.

It currently holds altogether 116 provider and 69 commissioner contracts for providing these services. It also provides the Integrated Single Financial Environment (a platform to process all non-pay spend) to all clinical commissioning groups across the country. In the main the work is won as a result of the trusts and other NHS bodies requiring the services running tendering processes with SBS and other suppliers being invited to tender, along with an in-house option where the services are not already outsourced. Where SBS wins contracts it has therefore won them on the basis of offering savings compared to the other alternatives.

SBS has, in the last 12 months, won 82 contract renewals and 13 new contracts. Ongoing customer-side management of these contracts and assurance of any savings is a matter for the NHS customers of SBS.

Using a methodology agreed with the National Audit Office, the Company's most recently audited accounts for the year end 2016 state that over £400 million of savings to the NHS have been achieved to date.

18 Sep 2017 | Written questions | Answered | House of Commons | 10221

Date tabled: 12 Sep 2017 | **Date for answer:** 14 Sep 2017 | **Date answered:** 18 Sep 2017

2.2 Oral Parliamentary Questions

- [NHS: US Companies](#)

Asked by: Lord Clark of Windermere (Lab)

My Lords, does the Minister concede that American companies are already playing a big part in the running of the NHS? Is he aware of the Written Answer given to me by the noble Lord, Lord O'Shaughnessy, last October,

which, talking about one of the three companies that oversee the supply of agency ..

Answered by: Viscount Younger of Leckie

I do not think there is anything to come clean about, because I have already reassured the House that no privatisations will take place, and there is no privatisation in place now. The Government's position is that the NHS is now, and always will be, a public service free at the point of need, and that it is not, and never will be, for sale to the private sector, whether overseas or domestic. No trade agreements will ever alter these fundamental facts.

22 Mar 2018 | Oral questions - Supplementary | Answered | House of Lords | 790 c411

- [NHS Trusts: Wholly Owned Subsidiary Companies](#)

Asked by: Eleanor Smith (Wolverhampton South West) (Lab) | **Party:** Labour Party

What estimate he has made of the number of NHS trusts that have established wholly owned subsidiary companies.

Answered by: The Minister for Health (Stephen Barclay) | **Party:** Conservative Party | **Department:** Health and Social Care

NHS Improvement has informed the Department that 42 foundation trusts have reported consolidated subsidiaries, but there might be a few instances of subsidiaries being too small to be consolidated.

20 Mar 2018 | Oral questions - Lead | Answered | House of Commons | House of Commons chamber | 904463 | 638 c144

Date tabled: 14 Mar 2018 | **Date for answer:** 20 Mar 2018 | **Date answered:** 20 Mar 2018

- [NHS Trusts: Wholly Owned Subsidiary Companies](#)

Asked by: Eleanor Smith | **Party:** Labour Party

What assessment has the Minister made of the impact on staff morale, retention and recruitment where trusts have set up wholly subsidiary companies and introduced a two-tier system whereby new staff terms and conditions are not part of the NHS "Agenda for Change" or the NHS pension scheme? Is this the back door to privatisation?

Answered by: Stephen Barclay | **Party:** Conservative Party | **Department:** Health and Social Care

Had the hon. Lady been able to attend the recent Westminster Hall debate on this issue, she would have heard that in the trust under discussion the staff survey showed an improvement in responses as a result of the subsidiary because many staff valued the flexibilities in the new contracts that the subsidiary could offer.

20 Mar 2018 | Oral questions - 1st Supplementary | Answered | House of Commons | House of Commons chamber | 638 c144

Date answered: 20 Mar 2018

- [NHS Trusts: Wholly Owned Subsidiary Companies](#)

Asked by: Justin Madders (Ellesmere Port and Neston) (Lab) | **Party:** Labour Party

The Minister may be in denial about privatisation, but is it not the case that the question-and-answer document from North Tees and Hartlepool Hospitals NHS Foundation Trust said that its subsidiary organisation could be taken over by a private company in the future? If the Minister wants to put these privatisation stories to bed, will he rule out the possibility of any of the subsidiary companies' being taken over by private organisations in the future?

Answered by: Stephen Barclay | **Party:** Conservative Party | **Department:** Health and Social Care

The party that is in denial is the Labour party, which, in 2006, passed the legislation through which subsidiaries could be offered. If the hon. Gentleman does not believe me, perhaps he should listen to NHS Providers, which says:

“It is...inaccurate and misleading to say that the establishment of wholly owned subsidiaries is a new phenomenon or being pursued to avoid VAT, privatise the NHS, or to reduce terms and conditions for NHS staff.”

Labour Members should stop scaremongering over legislation that their party actually passed.

20 Mar 2018 | Oral questions - Supplementary | Answered | House of Commons | House of Commons chamber | 638 c144

Date answered: 20 Mar 2018

- [King's College Hospital Foundation Trust](#)

Asked by: Greenwood, Margaret (Lab)

It is abundantly clear that the Government are accelerating the privatisation of our national health service by reducing supply in the NHS to create demand for private health insurance. We do not want a US-style health insurance here. Will the Minister please give the NHS the money it needs?

Answering by: Mr Philip Dunne | **Party:** Conservative Party | **Department:** Health

I cannot understand how the hon. Lady can make such an interpretation from any discussions that have been held, either in this urgent question or further afield. The Government have just given an additional £2.8 billion over and above that asked for by the chief executive of NHS England when he set out the “Five Year Forward View” and up to £10 billion of capital. This is nothing whatever to do with privatisation.

12 Dec 2017 | Proceeding contributions | House of Commons | 633 c184

- [NHS Trusts: Subsidiary Companies](#)

Asked by: Justin Madders (Ellesmere Port and Neston) (Lab)

On Sunday, the Secretary of State said that

“good public services are the moral purpose of a strong capitalist economy”,

yet trusts are so strapped for cash that they are creating private companies to get around VAT laws. Not only does this take money away from the Exchequer, meaning that other parts of the NHS are effectively subsidising these trusts, but it also removes vital protections for staff, who will find that they no longer work for our national health service. Be in no doubt: this is another step down the road of privatisation. Will the Minister set out, therefore, what protections are in place to prevent any of these companies from being sold off in the future to the highest bidder?

Answered by: Mr Philip Dunne | **Department:** Health

I am afraid that the hon. Gentleman, for whom I have considerable respect, is trying, yet again, the tired old approach of weaponising the NHS by alleging privatisation—seeing privatisation fairies where there are not any. This is about responding to the review of Lord Carter—one of his hon. Friends in the other place, I remind him—into driving efficiency through the NHS, which I know he supports, and about finding the right structures to allow, for example, the back offices of different NHS bodies in an area to be combined. That requires a structure, and a number of foundation trusts are setting up subsidiaries to provide those services to each other.

14 Nov 2017 | Oral questions - Supplementary | Answered | House of Commons | 631 c130

2.3 Early Day Motions

- [NHS WHOLLY OWNED SUBSIDIARY COMPANIES](#)

That this House notes that an increasing number of NHS trusts in England are attempting to establish wholly owned subsidiary companies to deliver services such as facilities and estates, ostensibly as a means of exploiting a tax loophole; believes that the major savings will in fact come from employing new staff on non-NHS terms and conditions, with no access to the NHS Pension Scheme; considers that such moves amount to backdoor privatisation, which is taking place despite mounting evidence of the failure of outsourcing in the NHS; recognises that the NHS is under extreme financial pressure but considers that such moves are merely short-term fixes that will create further problems in future; asserts that long-term protection of pay and pensions for staff transferring to new companies is weak, with some examples already of such organisations moving unilaterally to change staff conditions post-transfer; further believes that once such companies have been set up, it is far easier for trusts to transfer other staff and services in future; further considers that the NHS always functions at its best when services and staff work together as one team across an organisation, rather than being artificially separated by the establishment of arms-length entities; and calls on the Government to block the creation of any further NHS wholly owned subsidiary companies, while guaranteeing the continuation of the national Agenda for Change pay system and access to the NHS Pension Scheme for all healthcare staff, whether providing clinical or non-clinical services.

16 Jan 2018 | Early day motions | Open | House of Commons | 802 (session 2017-19)

Primary sponsor: Twist, Liz | **Party:** Labour Party

Other sponsors: Cunningham, Jim · Hopkins, Kelvin · Campbell, Ronnie · Glendon, Mary · Hill, Mike

Number of signatures: 34

2.4 Debates

- [NHS Wholly Owned Subsidiary Companies](#) (HC Deb 6 March 2018 cc103-112WH)

3. Press material

3.1 Articles

[NHS trusts 'fritter away' millions of public money outsourcing staff to private companies, Unison says](#)

The Independent, 15 April 2018

[NHS privatisation would be 'political suicide', says thinktank](#)

The Guardian, 1 February 2018

[NHS privatisation soars as private companies win 70% of clinical contracts in England](#)

The Independent, 30 December 2017

[NHS plans: Privatisation or progress?](#)

BBC News, 30 January 2018

[Judge blocks outsourcing children's health contract to Virgin Care due to 'considerable impact' on NHS](#)

The Independent, 21 February 2018

[Richard Branson's Virgin healthcare firm scoops £1bn of NHS contracts](#)

The Guardian, 29 December 2017

[NHS makes undisclosed settlement to Richard Branson's Virgin Care after legal dispute](#)

The Independent, 28 November 2017

[Privatisation of NHS temporary staff agency halted](#)

The Financial Times, 7 September 2017 [available via parliamentary subscription]

[Senior doctors accuse Government of deliberately underfunding NHS to accelerate privatisation plans](#)

The Independent, 26 June 2017

[Virgin Care sues NHS after losing Surrey child services deal](#)

The Financial Times, 15 March 2017

[Private companies given more chances to win NHS work](#)

The Financial Times, 2 January 2017

3.2 Notices

[NHS spending millions on private staff outsourcing, claims union](#)

Nursing Times, 16 April 2018 [subscription required]

[Providers assure organisations that WOS are not form of backdoor privatisation](#)

National Health Executive, 20 March 2018

[Trust subsidiary companies are not 'VAT scam', minister says](#)

Health Service Journal, 14 November 2017 [available via parliamentary subscription]

4. Further reading

4.1 Commons Library briefings

- Commons Library briefing CBP07206, [The Structure of the NHS in England](#), 7 July 2017
- Commons Library briefing CBP07526, [National Health Service Bill 2015-16](#), 10 March 2016

4.2 Reports

- BMA, [Hidden figures: private care in the English NHS](#), February 2018
- The King's Fund, [Is the NHS being privatised?](#), August 2017
- Full Fact, [How much more is the NHS spending on private providers](#), May 2017
- BMA, [Privatisation and independent sector provision of NHS healthcare](#), April 2016

4.3 Comment blogs and essays

- London Review of Books, [NHS SOS](#), 5 April 2018
- King's Fund Blog, [From Margaret Thatcher to Theresa May: 30 years of the public's views about the NHS and public spending](#), 1 February 2018

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