An Roinn Caiteachais Phoiblí
agus Athchóirithe
Department of Public
Expenditure and Reform

DPE 022/003/2013

25 June 2013

To: Accounting Officers

Circular 10/2013:

Minute of the Minister for Public Expenditure and Reform in response to the Committee of Public Accounts Report on the Health Service Executive.

A Dhuine Usail,

1. I am directed by the Minister for Public Expenditure and Reform to enclose, for your information and guidance, a copy of the Minute of the Minister for Public Expenditure and Reform in response to the Committee of Public Accounts Report on the Health Service Executive.

2. **Issues raised**
   The Minute addresses Financial Management Infrastructures, Budgetary Control, Accountability, and HR issues.

3. **Enquiries**
   Enquiries in regard to this circular can be addressed to Government Accounting Unit, Department of Public Expenditure and Reform, telephone: +353 1 6767571, LoCall: 1890 661010 or email: govacc@per.gov.ie.

Mise le meas,

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Minute of the Minister for Public Expenditure and Reform in response to the Committee of Public Accounts Final Report on the Health Service Executive

The Minister for Public Expenditure and Reform has examined the Committee's Report and has taken account of its conclusions. In relation to the Committee's recommendations, his response is as follows.

Recommendation 1

A review of the budgeting model that was used to determine the budget allocation of the HSE in 2012 should be undertaken by the Department of Public Expenditure and Reform, given that some of the anticipated savings in areas such as the use of agency staff did not materialise.

The Minister for Public Expenditure and Reform, following consultation with the Department of Health, does not accept this recommendation.

The budget for the HSE was set by Government in the context of the 2012 Estimates having regard to overall expenditure ceilings and the country's fiscal targets. A central plank of the HSE Service Plan and budget underpinning it, as approved by the Minister for Health, was the achievement of savings across a range of areas in order to ensure adequate funding to sustain services to the greatest extent possible.

It is clear that delays in the agreement with the pharmaceutical industry, the decision by the Minister for Health not to proceed with the legislation in relation to private patients and pressures on services, particularly on the medical card and hospital sector resulted in the requirement for a Supplementary Estimate in 2012. The improvements to management and accountability in the HSE which should result from the Ogden Study and other measures referenced at Recommendation 3 below should also help enhance budgetary performance.

Recommendation 2

Where an estimate presented to the Dáil contains expenditure figures that are predicated on the outcome of future negotiations, the relevant Minister should be required to inform the Select Committee of the envisaged timescale for such negotiations and should also give a progress report at regular intervals to the Select Committee.

The Minister for Public Expenditure and Reform accepts this recommendation in principle.

It would be matter for the relevant Minister to engage with the relevant select committee and update it on progress, as appropriate.

Recommendation 3

The Department of Health having completed its review of the Odgen Report which examined the financial management capacity of the HSE should publish an implementation report which will outline the investment strategy on financial management infrastructure so that the State has a robust and workable system for the management of the health budget.

The Minister for Public Expenditure and Reform is informed that following consideration of the Ogden Report the Department of Health commissioned PA Consulting to carry out further work to focus on implementing change with regard to key deficiencies identified by Ogden. This work provided an outline strategy in relation to improving the financial management system within the health sector.

A key priority of the Director General Designate upon appointment in August 2012 was to stabilise HSE finances and to implement the actions outlined in the PA Review commissioned by the Department.

Following a tender process, PA Consulting was appointed by HSE to support a programme to take the first steps in the delivery of Financial Reform. In this regard, the HSE is working closely with the Department of Health to ensure that the necessary infrastructure is identified and the appropriate investment strategy is put in

place to deliver this infrastructure thus ensuring that a more robust Performance Management & Accountability regime is established.

Recommendation 4

The HSE should establish, based on usage and on-going need, the number of posts that could be filled directly rather than through use of agency workers on a cost neutral basis.

The Minister for Public Expenditure and Reform is informed by the Department of Health that the health services cannot convert agency expenditure/usage into recruitment of new employees due to the requirements of the general moratorium on recruitment.

However, the Minister for Public Expenditure and Reform would point out that responsibility for managing health sector numbers is the responsibility of the HSE and the Department of Health within its approved employment control framework (ECF) ceilings. This allows HSE discretion to recruit staff for frontline services and health reform provided that it meets its employment ceiling. While agency staff are not included in the employment ceiling, they form part of overall pay costs. The ECF provides that:

- Agency staff may not be used to increase the effective numbers of staff employed by a budget-holder.

- They should generally be used only in exceptional circumstances to provide emergency or short-term relief for essential frontline staff and must not compromise compliance with overall budget or the achievement of the pay and pay related savings.

Recommendation 5

The Department of Public Expenditure and Reform should examine whether the pension abatement rule can be extended to cover agency workers.

The Minister for Public Expenditure and Reform does not accept this recommendation as the proposal is unworkable from a practical perspective.

Abatement works on the basis of an individual being employed by a public service body and public service pay and pension terms are applicable. Where a private agency employs an individual the HSE contract is with the private agency and not the individual. The HSE has no information about the pay level of the agency employee and has no right to that information or to interfere with a third party private employment contract.

Recommendation 6

The application form for the medical card should be reviewed to make it straightforward and user friendly.

The Minister for Public Expenditure and Reform is informed by the Department of Health that the main medical card application form has been redesigned and approved by the National Adult Literacy Agency (NALA). Work is well underway on the revision and improvement of all forms and letters, which will also be approved by NALA.

Recommendation 7

The HSE should establish whether information on applicants for medical cards which is held by other Government agencies can be made available online to the HSE in order to streamline the application process and should take steps to obtain such information on-line where it is possible to do so.

The Minister for Public Expenditure and Reform is informed that measures are currently being in place by the Department of Health and the HSE to address the issues raised.

A key component of the control system regarding medical cards is the capacity to share data between the HSE, Revenue, and the Department of Social Protection. The

Department of Health has implemented legislation in April 2013 to support this initiative. The plan agreed with the Department of Health provides for a supply of data from Revenue which will facilitate the initiation of renewals, taking into account, the most recently available total gross income across all income sources. A detailed specification for this exchange of data has been developed by Revenue in collaboration with the HSE and work is ongoing to deliver this project.

Recommendation 8

The recommendations made in the HIQA Report on Tallaght Hospital (AMNCH) in respect of governance and oversight should be set as the minimum standard expected of all voluntary hospitals and the service level agreement between the HSE and the relevant voluntary hospital should reflect these requirements.

The Minister for Public Expenditure and Reform is informed by the Department of Health that it accepts the need for improved governance and oversight of voluntary hospitals.

Underpinning the reform programme articulated in "*Future Health*" is recognition that the current system of governance of the Irish hospital sector requires strengthening. *Future Health* commits to the establishment of the required governance and leadership capabilities on a phased basis starting with the establishment of administrative hospital groups during 2013, leading to the introduction of independent hospital trusts for all hospitals by the end of 2015.

Since the introduction in 2010 of formal standard Service Arrangement or 'contract' with the 16 voluntary hospitals in the State, the HSE has continued to strengthen governance arrangements through;

- Specifying further responsibilities on HSE Managers to oversee and manage the services which the HSE is funding.
- Improving and strengthening the Service Arrangement to ensure it serves as a robust instrument for managing the relationship with the voluntary provider.

In January 2012 the HSE also introduced a set of minimum requirements for managing the relationship with each voluntary hospital. These included,

- A requirement to assign specified named managers with responsibility for each Hospital.
- Ensuring that there is an explicit link in the Service Arrangement between the funding provided and activity expected of each hospital.
- An enhanced performance review process with a minimum of 10 review meetings to be held each year and which will include the HSE Area Manager, Assistant National Director Finance, Regional Quality and Risk Manager, and other senior staff as appropriate.
- Audited Accounts to be reviewed by an appropriate finance officer.

There is now an explicit requirement on all voluntary hospitals to comply with the Code of Practice for the Governance of State Bodies. Each hospital is also required to have a code of governance in place that is compliant with the Framework for the Corporate and Financial Governance of the HSE.

The Chairs of the Interim Hospital Boards already established now report to the Director General (Designate) of the HSE as recommended in the HIQA report.

Recommendation 9

The Department of Health should review the audit arrangements for the voluntary hospitals that do not currently fall within the remit of the C&AG so as establish the scope that exists to enhance the accountability of those hospitals to Dáil Éireann in respect of the €1.9 billion annual grant received from the State. This review should examine the extent to which the Minister for Health can have a greater role in the appointment of the auditors, the board of each hospital and the membership of the each board's audit and remuneration committees.

The Minister for Public Expenditure and Reform is informed by the Department of Health that the powers currently afforded the Comptroller & Auditor General under existing legislation are actually quite wide-ranging and extensive. The Comptroller & Auditor General (Amendment) Act 1993 includes specific powers of inspection and examination of accounts of bodies that receive monies from the Exchequer. Section 8

provides that the Comptroller has the right to inspect the accounts of any organisation that is, directly or indirectly, in receipt of 50% or more of its funding from the Exchequer, so as to determine whether the funds have been expended for a purpose authorised by the Oireachtas and in accordance with any conditions specified by the Minister. Section 9 of the Act provides further powers of examination, in relation to statutory boards audited by the C&AG, in order to ascertain whether the resources of such bodies have been used in an economic and efficient manner and may include the evaluation of systems, practices and procedures employed in such organisations in their use of those resources. In this context, the C&AG is currently entitled to inspect the books and records of any Voluntary hospital in relation to any funding provided by the HSE arising from the contractual service level agreement with such hospitals. Furthermore, the Health Act 2004 extended the remit to include as part of any examination undertaken of the HSE by the C&AG, those arrangements made with providers funded under section 38; thereby including as part of examinations the privately audited Voluntary hospitals.

Regarding the recommendation and potentially extending the role of the Minister in the appointment of the auditors etc., the Department of Health points out that there is a diverse range of corporate governance structures in operation across the 14 Voluntary board hospitals which act as constraints in this regard. The range comprises bodies incorporated under the Companies Acts, limited by shares and/or limited by guarantee, Registered Charities and Trusts, and bodies given governing status under statutory charter. Of the 14 hospitals, half are now constituted as private companies which are required to comply with the provisions of Companies legislation and the rules or codes of best practice in corporate governance. In such circumstances, explicit powers are granted to the board of directors of these companies concerning the appointment and composition of the board, the appointment and role of overseeing board sub-committees and the appointment and relationship with the company's external auditor. As a consequence of these powers being vested in the board, this places a specific legal responsibility as set down in company law that they be exercised by the company's directors without reference to any external party or influence. In relation to the non-corporate Voluntary hospitals, while the respective constitutions or charters governing such entities may not be specified or the subject of legislation, the duties of making appointments to the board, appointing sub-

committees and selection of external auditor are normally undertaken by the members of the governing body in accordance with the articles of the hospital constitution, charter or trust.

Recommendation 10

The HSE, in consultation with the Department of Health, should conduct a review of the oversight arrangements in respect of the 2,500 agencies who receive funding under Section 39 and should examine whether a system of random audit of a percentage of those bodies would enhance oversight.

The Minister for Public Expenditure and Reform is informed by the Department of Health that the HSE undertakes audits in specified Section 38 and Section 39 agencies, particularly where issues of significant concern to the HSE are identified. Plans are in place to extend this programme of audits in 2013.

During 2012 the HSE's Internal Audit Department undertook a comprehensive review of the governance of a range of HSE funded agencies. The outcome of this review has fed into the further development and strengthening of the HSE's Service Arrangement process.

HSE funded agencies are required, annually, to submit their audited accounts to the HSE for review. An audit report, in respect of salaries paid in section 38 Agencies, is being finalised and will be considered shortly by the Board of the HSE.

Recommendation 11

The HSE should examine the scope it has to publish the names of those Hospital Consultants who are holding up the collection of income due to the HSE from private insurers.

The Minister for Public Expenditure and Reform is informed by the Department of Health that the HSE has examined this option but, having regard to its legal advice, has decided to pursue alternative management options to improve its income collection.

The HSE's legal advisers have outlined a range of material legal risks associated with publishing including, in particular, that a consultant who is named in the list could potentially ground a claim against the HSE for (a) defamation (b) breach of confidentiality and / or (c) breach of data protection laws.

The HSE is instead focusing primarily on:

- Embedding the 14 Working Day (20 Calendar Days) standard for consultant signoff by end 2013 Plan – 20 calendar days. The goal is to achieve the target by year end i.e. for all claims raised in the last months of the year. The overall days will average approx 30 days as the overhanging backlog is reduced.
- Continuing to improve its internal processes through the Introduction of Electronic Claiming - Twelve sites are currently using the electronic claims system representing 51% of overall national claims. A further eleven sites will go live by July'13 representing an additional 22% of claims. The plan is that greater than 80% - 90% of claims will be electronic by Dec'13.
- Setting out National Standards for all stages of the Collection Process to hit 15 days by end 2013.
- Working with the Department of Health and the Private Insurance Companies to bring about changes to modernise the payment terms so that payments to the HSE are made quickly without any reduction in the level of scrutiny by insurers of the treatment, length of stay and ultimately costs.

Recommendation 12

The practice of paying allowances to retiring hospital consultants in lieu of untaken rest days should be reviewed. A provision should be introduced whereby consultants can carry forward untaken rest days within a three year cycle, similar to the civil service provision relating to annual leave.

The Minister for Public Expenditure and Reform is informed by the Department of Health that measures are currently in place to address the issue of concern.

Consultation and discussion with both the Irish Hospital Consultants Association and the Irish Medical Organisation culminated in a Labour Court recommendation LCR 20403 of 6 November 2012. Revised arrangements to curtail current rest days and historic rest days were put in place from 6 December 2012. However, both consultant representative bodies remain in dispute with management on this matter.

Recommendation 13

As part of the review of remuneration of higher paid public servants, the Department of Public Expenditure and Reform should conduct a benchmarking exercise in respect of the pay of Hospital Consultants.

The Minister for Public Expenditure and Reform, following consultation with the Department of Health, does not accept this recommendation as measures are already in place to reduce the pay of hospital consultants.

In September 2012, the Government announced that newly appointed medical consultants would be subject to a reduction of 30% on the 'new entrant' rates in force up to that time. They had already been the subject of a 10% reduction effective from 1 January 2011.

Having regard to the current fiscal situation, the Government has also indicated its intention to reduce the pay of higher paid public servants including Hospital Consultants and has brought forward legislation, the Financial Emergency Measures in the Public Interest Bill 2013 to that effect.

Recommendation 14

As part of the on-going drive to reduce the cost of drugs, the prices paid by the State should be benchmarked against the prices paid by the national health services in other OECD States. The results of this simple benchmark process should be reviewed annually.

The Minister for Public Expenditure and Reform is informed by the Department of Health that it will consider this recommendation in light of an ESRI study to compare the cost of drugs, prescription practices and the usage of generics in Ireland with comparable EU jurisdictions which has been commissioned by it as part of the Memorandum of Understanding with the Troika.

This report will be finalised in June 2013, following which it will be placed on the Department's website.

Recommendation 15

The Department of Health and the HSE should review the GMS contract with a view to establishing whether criteria relating to GP participation on primary care teams can be a factor in determining the award of new contracts.

The Minister for Public Expenditure and Reform is informed by the Department of Health, that it envisages the new GP contract under the Programme for Government, when finalised, will focus on prevention and will include a requirement for GPs to provide care as part of integrated multidisciplinary Primary Care Teams.

The Programme for Government provides for the introduction of a new GP contract with an increased emphasis on the management of chronic conditions, such as diabetes and cardiovascular conditions. The existing contractual deficit in regard to participation in primary care teams can only be remedied by (i) an agreed amendment to the contract between Minister and IMO or (ii) as a key requirement under a new GMS contract or (iii) the enactment of legislation to amend the contract.

Recommendation 16

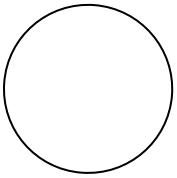
The GMS contract should provide that medical card entitlement of babies be established from the date they first attend a GP and not the date they were born.

The Minister for Public Expenditure and Reform is informed by the Department of Health that since April 2012, the HSE has put arrangements in place to enable GPs to directly maintain the medical card / GP visit card register, whereby they can activate eligibility in relation to births and remove eligibility upon death.

In the PCRS November 2012 payment, GPs were paid in full in respect of underpayments associated with births. At the same time, the PCRS put mechanisms in place to recoup on a phased basis any outstanding overpayments in respect of deaths. This process will be completed by June 2013.

Given under the Official Seal of the Minister for Public Expenditure and Reform on this the day of June, 2013

L.S.



Robert Watt
Secretary General
Department of Public Expenditure and Reform