



HFMA VAT Technical Sub-Committee

Draft minutes

Thursday 14 May 2020, 11:00 – 11.45
Microsoft Teams Meeting

Members attending

Anthony Robson (ARo)	Gateshead Health NHS Foundation Trust (Chair)
Katy Battley (KB)	Sheffield Teaching Hospitals NHS Foundation Trust
Martin Ginnelly (MG)	NHS Shared Business Services
Michael John (MJ)	London Ambulance Service NHS Trust
Paul Jones (PJ)	Department of Health and Social Care
Gareth Lewis (GL)	Aneurin Bevan University Health Board
Richard Lodge (RL)	Harrison Lodge Consultancy LTD
Jennifer McGowen (JMCG)	NHS Shared Business Services
Rachel Owen (RO)	NHS England
Gita Raja (GR)	University College London Hospitals NHS Foundation Trust
Amanda Randall (ARa)	Newcastle Upon Tyne Hospitals NHS Foundation Trust
Di Roberts (DR)	Hull and East Yorkshire Hospitals NHS Trust
Michael Sheils (MS)	NHS Greater Glasgow and Clyde
Soloman Zekarias (SZ)	Guy's and St Thomas' NHS Foundation Trust

HMRC

Daniel Bell (DB)
Mike Barlow (MB)
Darren Jordan (DJ)
David Ogilvie (DO)
David Smith (DS)

HFMA

Debbie Paterson (DP)

Business

1. Welcome/apologies for absence/membership

1.1 Apologies

Apologies were received from Jonathan Last and Charley Spicer.

1.2 Members:

- Darren Jordan, Katy Battley and Jennifer McGovern were welcomed to their first meeting
- it was noted that Steve Rourke has left the NHS and is therefore no longer a member of this committee. The committee noted their gratitude for the work that he has done over the years, his expertise will be missed.
- it was noted that the agenda for this meeting focuses on Covid-19 issues and it is assumed that the usual matters arising will not have moved forward.

For discussion and approval

2. Minutes of the last meeting

The minutes of the meeting held on 23 January 2020 were agreed. The actions were reviewed and will be carried forward where necessary.

3. Covid-19

To discuss any VAT-specific issues arising from the Covid-19 pandemic

3.1 Personal protective equipment (PPE)

ARo indicated that there have been several issues in relation to PPE:

- there have been many changes to procurement arrangements. For example, NHS provider bodies have been procuring items for other sectors eg care homes, funeral directors etc. This has resulted in relaxation of the normal framework arrangements and the use of new traders to both the NHS and the market. This has resulted in a resurgence of pro forma invoices (last seen generally in the NHS in the 1980s) as suppliers are asking for payment up front.
- this has resulted in an increase resurgence of fraudulent activity. The means that the due diligence process is key – it is critical that procurement departments undertake the normal credit checks, Companies House checks and HMRC checks to see that there is a history and that the NHS knows exactly who they are dealing with. ARo is aware of a local case of an attempted fraud that used a very sophisticated invoice including order numbers and all of the details from the NHS organisation. The standard of the fraudulent invoice was very high and it could have easily been paid but for the rigorous checks in place. It has been sent to both the Counter Fraud Authority and HMRC
- payments in advance are being made
- large volumes of equipment are being delivered and distributed around the NHS as well as to bodies outside of the NHS
- PPE has been zero rated for VAT from 1 May onwards (<https://www.gov.uk/government/publications/revenue-and-customs-brief-4-2020-temporary-vat-zero-rating-of-personal-protective-equipment-ppe/revenue-and-customs-brief-4-2020-temporary-vat-zero-rating-of-personal-protective-equipment-ppe>) – this will required some checking that the VAT is being treated correctly particularly that cut off issues are identified and a general administration issue to pick up the VAT appropriately.

PJ stated that the DHSC had similar issues as they are dealing with lots of new bodies. They have had to go to the Chinese Embassy to check new Chinese suppliers. They have had to change payment arrangements to enable foreign currency transactions to be made over the weekend and outside of normal working hours. Due diligence has been done but at pace and in very different circumstances than usual. There have also been issues with customs duty. It is now starting to calm down and supply chains are now in place although the volumes of transactions are still high. Counter fraud teams have been made aware of issues as they arise.

There are some queries around whether PPE have to have qualified kitemarks and, if they don't whether this causes a VAT issue. This query has been passed to HMRC.

It was not just PPE – these issues have also happened with equipment such as ventilators. There are shipments waiting to be delivered but it is not clear whether the quality of the supplies is appropriate.

Action: ARo to send the fraudulent invoice to DP for circulation to the committee.

3.2 Making tax digital (MTD)

For NHS bodies (GIANT customers), MB reported that there is still no update on the current position is that MTD will not be mandated for GIANT customers no earlier than April 2022. This is a live review so an update will be provided to the committee as soon as there is one.

For subsidiary companies outside of the GIANT regime, MTD is live and returns have to be submitted online.

3.3 VAT on staff secondments

This was raised by a local authority colleague just prior to the last meeting so the email was circulated after the meeting. Nothing has changed from this committee's point of view, but it was agreed that this committee will keep the CIPFA VAT committee up to speed with developments.

3.4 Free car parking

MB reported that the Secretary of State's, pre-Covid-19, announcement in relation to free parking from 1 April 2020 referred to generic groups who would qualify for free parking. HMRC needs to do some work to understand the impact on trusts as there is such a mixed bag of car parking arrangements in place, for example, fully owned and run by NHS bodies, owned by NHS bodies but run by third parties, part owned by NHS bodies and third parties and PFI arrangements. The issue from HMRC's perspective is any adjustments that would need to be made on the capital good scheme for a change of use.

Covid-19 has impacted across the NHS, so this work has been paused for the moment. The secretary of state has allowed free parking to all NHS staff during the COVID-19 crisis but at some point, HMRC will need to understand the impact on NHS bodies. If significant fee-paying spaces are released as non-fee paying, then it could have an impact on the capital good scheme. But HMRC would need to understand the range of facilities out there and how the free spaces will be provided, for example:

- will people still pay for parking and then get a refund?
- will they be given a badge, so they don't pay?

Now is not the time but this will need to be scoped out at a later point. Covid-19 has clearly changed everything because during the pandemic visitors to NHS sites although scarce are not being charged. Most NHS bodies are waiting to see what the implications will be once Covid-19 is over. It is a piece of work that this committee will be involved with once it is appropriate.

Action: DP to carry forward this issue forward to the next meeting

3.5 To discuss the paper from the British Universities Finance Directors Group (BUFDG)

This paper was circulated with the agenda – it has come out because of the emergency arrangements put in place and the fact that people are working together. University staff have been

seconded to the NHS, university accommodation has been used by NHS staff, university's labs and other buildings have been used by the NHS and other third parties. Some of this has been free and some has a cost associated with it.

BUFDG have set out their concerns and have asked for help with the impact with the VAT costs. This committee can sympathise with their view and the different working arrangements mean that this will be an issue across the public sector but the guidance/ rules/ policies have not changed so it is an issue that will have to be discussed/ resolved at a higher level.

DO reported that the HMRC and HM Treasury have received a substantial number of representations not just from BUFDG. The present position is that Ministers are not considering changing the tax rules, other than in exceptional circumstances – so this is the context within which all representations are being considered.

HMRC are still looking at the BUFDG paper and are still working on it, they will be meeting with HM Treasury in a couple of weeks. The BUFDG requests can be split into two:

- COS issues – that is an issue for the NHS rather than for the university sector
- non-COS issues – BUFDG made a substantial number of, sometimes briefly worded, representations which are still being considered together with the others received.

From this committee's point of view this issue is with HMRC so there is no action for the committee at the moment.

4. Matters arising from meeting held on 23 January 2020

Items 4.1 to 4.7, 4.9, 4.11 to 4.13 on the audit trail are on hold until next meeting.

4.8 P22 framework and COS heading 35

It was worth getting an update on this as some construction projects are progressing.

MB provided the following update - P2020 is the successor to P22 and the plan is to launch it later this year. HMRC is working with DHSC colleagues to help improve the general guidance that has been promoted in the past to make it easier for NHS bodies to put appropriate arrangements in place. It's a collaborative piece of work and work is on-going. The plan is that HMRC will talk to Design for Life in Wales and Framework Scotland once there is a completed piece that they can look at in their context and put something similar in place.

The aim is to make arrangements simpler to apply for recovery and get it approved quicker and then, once work is completed, the percentages are revisited and either a repayment or recovery is made if there has been a change once expenditure has been incurred.

Hope to get the guidance out fairly quickly but it does need to be fit for purpose.

PJ has had a query about whether projects funded out of revenue could fall under the P22 framework. This seems to be the case.

MB confirmed that HMRC are fast tracking claims relating to Nightingale Hospitals (turning them around in 24 to 48 hours), but refunds will depend on local arrangements. HMRC will turn around these claims as soon as they are received.

HMRC have got a system in place to check that VAT 21 and VAT100 claims are being submitted, and where they have not been submitted, they are checking why that is and offering help and support. This allowed HMRC to pick up missing claims last month. Basically, HMRC are doing everything they can to facilitate the flow of funds.

ARo commented that the levels of money flowing through the system is quite incredible and unprecedented. However, this may mean that complications arising from the issues being discussed today will be unravelled over the next 18 months or so.

To note

5. Any other business

RO stated that NHS England has put a contract in place with independent sector providers, so they are doing some work with KPMG and HMRC to make sure that the contract is set up in such a way that there will not be VAT issues down the line. They have had a useful meeting and work is on-going on that contract.

PJ reported that the DHSC are considering whether contracted-out drive through testing centres could be classified as healthcare facilities. This means that they are looking at the detail of the specific arrangements at the moment and the answer is likely to depend on who is doing the work, what work is being done, how it is being delivered.

6. Future meeting dates

It is planned that meetings will be held at 110 Rochester Row from 11am – 2pm:

- 17 September 2020

Actions from previous meeting

Minute reference	Audit trail subject	Action	Who	Done?
2020Jan3.7	COS 14	<p>PJ to get in touch with TCOE to see where they are with their review of COS14. HMRC want to know:</p> <ul style="list-style-type: none"> • How the guidance can be clearer/ simpler? • What are the particular points that need to be clearer? • What are the areas that the guidance needs to address, including the issues that HMRC know about? 	PJ	
2020Jan3.7	COS 14	Committee members to identify examples where the current COS 14 guidance is not helpful and send them to the HFMA so the committee can send in a coordinated response.	All	
2020Jan3.7	COS 14	DP and CS to find the paper on telephony and circulate it to the committee.	DP/CS	<p>All papers received from CIPFA reviewed but the paper could not be found</p> <p>To update in due course</p>
2020May3.1	Covid-19	ARo to send the fraudulent invoice to DP for circulation to the committee.	ARo	
2020May3.4	Free car parking	DP to carry forward this issue forward to the next meeting	DP	