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25th May 2018

Dear Sir/Madam

I refer to the letter from HMRC of 17 May 2018. We note that the Northern Health and Social Care Trust (NHSCT) has been found to be in breach of National Minimum Wage law due to late payment of the correct rate of the National Living Wage to certain employees from April 2017.

We are grateful for HMRC's confirmation that affected workers have been paid their arrears of pay and that they are receiving the correct rate. We wish to make the following representations, and would be grateful if BEIS could consider these in deciding whether to name the NHSCT under the NMW Naming Scheme.

Specifically, we respectfully state our strong view that it would not be in the public interest to name the NHSCT. The Health and Social Care (HSC) service in Northern Ireland already faces significant workforce recruitment and retention problems, which affect services and patients on a daily basis. We incur unsustainably high locum and agency costs to try and close workforce gaps. We consider that naming the NHSCT would deter applicants from applying for jobs within the HSC, just at the time when a new regional Workforce Strategy is attempting to put the workforce on a sustainable footing into the future. The Strategy document was published on 14 May 2018 and outlines the problems and challenges in more detail. A copy is attached at Tab A.

We also submit that it was always the NHSCT's intention to pay the correct rate. However, a unique combination of factors meant that there was a delay, and this was entirely outside the NHSCT's control. In the absence of Ministers in Northern Ireland, no pay policy was in place. The Department of Health was therefore delayed in issuing

the relevant circular - *Circular HSC (AfC) (2) 2016 – Addendum* - to HSC employers until 22 March 2017 (copy attached at Tab B). Temporary Supply approval was not sought until 19 April 2017, and not granted until 4 May 2017.

There was also initial trade union concern at the proposed approach to pay only the statutory minimum (i.e. – to over 25s only), which required the Department to seek legal advice, and which was received on 26 May 2017. The Department had – pending the receipt of this legal advice – instructed HSC employers to put implementation of the circular on hold.

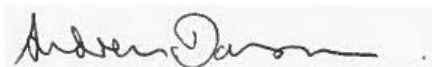
The Department and HSC employers made strenuous efforts to pay the correct rate, plus arrears, as soon as all approvals were in place.

We would also ask you to note that the Department and HSC employers – despite the absence of a pay policy for 2018/19 – learned lessons from 2017/18 and ensured that this year's new rate was paid with effect from 1 April 2018.

We are – and always have been - entirely respectful of the need to comply with the legislation.

We would be very grateful if you could consider these representations in reaching a decision whether to name the Trust under the BEIS NMW Naming Scheme. We are very happy to provide any further information you may require.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Dawson', followed by a small dot.

ANDREW DAWSON

Northern Ireland health and social care workforce strategy document

<https://www.health-ni.gov.uk/sites/default/files/publications/health/hsc-workforce-strategy-2016.pdf>

Department of Health Circular



HSC_AfC_2_AfC
Pay 201617 Addend