People and Health Scrutiny Committee
30 July 2025
Questions submitted by Councillors

Question 1 – Submitted by Cllr Jon Orrell

Can the committee seek reassurance that the proposed merger of human resources functions from our three largest NHS providers will not harm its workforce over time? Unison are concerned that it may create a two-tier workforce, and open the door to future terms and conditions changes. They state that while TUPE may initially protect staff pay and conditions, it offers no long-term security. Over time, new starters may be employed on inferior contracts, creating division among colleagues doing the same work. Is this the case?

Response provided by Cllr Toni Coombs, Chairman – People & Health Scrutiny Committee

May I thank Cllr Orrell for his question and also for his concern for the wellbeing of NHS staff who are affected by these proposals.

I understand that the scoping work for the creation of a subsidiary company to manage the estates, facilities and procurement functions for the three NHS foundation trusts was completed in June. These proposals affect around 1,600 staff who would be part of a TUPE consultation process which will take six weeks (allowing for the school summer break) rather than the statutory 30 days.

Unison and other unions have notified the trusts that they are opposed in principle to subsidiary companies. They have challenged on issues of substance and process, summarised in the correspondence with Unison's Head of Health. Local MPs have also raised issues and these have all been taken seriously with detailed replies given.

Throughout the engagement, the trusts' agreed principles have been clearly and consistently communicated. These are:

- Protecting Agenda for Change pay, terms and conditions, and thus staying aligned with future national updates for current and future staff.
- Protecting access to NHS pensions for all current and future staff
- Keeping ownership in the public sector.

Despite this, many staff had heard these were at risk, therefore, much of the engagement by the trusts has focused on providing assurance.

As a result of the engagement, and need for staff assurances, two substantive changes are proposed:

A "Triple Lock" on pay, pension and NHS ownership - three measures that go far beyond the TUPE legal protection on pay and conditions.

- The first protection is NHS FT Directors will sit on the OpCo (Operating Company) Board and have reserve powers to block any change to pay, terms or pensions for existing or new staff.
- Secondly, the contract between each foundation trust and the subsidiary company will have a requirement that staff working have to be employed on NHS national pay, terms and conditions, with the right to the NHS pension.
- Thirdly, the company articles, in effect its rules, will have the requirement for staff to all work on NHS terms and conditions, access to NHS pension etc. Therefore, there is no prospect of the company doing anything different.

The Triple Lock also applies to ownership having to remain 100% within the NHS.

A 25-year contract - this is longer than the originally proposed 10 years. This allows longer for the company to be established, and fits with the contract length many other subsidiaries have been set up with. The prospect of being outsourced is then effectively locked out.

The trusts understand that the proposals have caused concern for some colleagues and they continue to engage with them, providing information and giving opportunities to feed back views. The triple lock and longer contract proposals are recommended as a direct response to the engagement and aim to address the main concerns the trusts have heard.