

**Correspondence from the Scottish Government to the Public Audit Committee, dated 21 March 2014**

**AUDITOR GENERAL FOR SCOTLAND (AGS) REPORT “NHS FINANCIAL PERFORMANCE 2012/13” AND “MANAGEMENT OF PATIENTS ON NHS WAITING LISTS – AUDIT UPDATE”**

Thank you for your letter of 28 February 2014 requesting the further information which the Cabinet Secretary and supporting officials agreed to provide during the oral evidence session on 19 February.

Treatment Time Guarantee (TTG)

I have set out at Annex A the breakdown by Board of the number of times the TTG has been breached in 2012-13, and the response of each Board in relation to section 10 of the Patient Rights (Scotland) Act 2011.

In dealing with these issues, NHS Boards gave priority to ensuring that any patient whose treatment was not delivered within 12 weeks received that treatment with minimum delay thereafter. As I indicated in my letter of 13 February I have asked for follow up work to be undertaken in order to provide assurance on actions taken to track and treat all patients who are waiting longer than 12 weeks to receive treatment. This exception reporting from Boards will include information on the reason for any breach, and confirmation that the patient has been contacted, and the anticipated treatment date. This reporting will start from 1 July 2014.

You asked about contact made with the Cabinet Secretary and Boards on TTG. We are not aware of any official written correspondence on behalf of patients. However, over the course of the last year officials have received a small number of calls (fewer than 10) with queries on the delivery of the legal guarantee. These patients were advised of the action a Board must take, including offering an appointment at the next available opportunity and an explanation of why the guarantee was not delivered

You also requested a flow chart showing information given to patients. This is attached at Annex B.

We have established a working group on better communications with patients, to ensure that patients understand how the current guarantee and standards interlink as part of the patient pathway, and to set out clearly what that means for the patient. This group is due to report in June and I would be pleased to brief the Committee further thereafter.

We have also put in place a free waiting time advice line to provide patients with more information on the legal guarantee and other waiting time standards. The helpline is run by NHS24 and patients can contact it on 08000 28 28 36. Patients can also obtain information on the NHS Inform Website: <http://www.nhsinform.co.uk/Rights/Waitingtimes>.

Confidentiality in Settlement Agreements

Records of settlement agreements are not complete for the earlier years covered by the Committee's request. However, the table below shows the numbers of agreements from 2007-08 to date based on the records available. These differ from previous figures (including the figure of 697 quoted) as we have continued to validate the records. This validation has given us more accurate information about settlement agreements and has

allowed us to remove data relating to voluntary redundancies or severance schemes which had been included in earlier numbers, hence the apparent reduction in numbers.

The table also shows the costs associated with the agreements. These will often include legal expenses, some of which will relate specifically to confidentiality, but the costs of specific clauses will be subsumed within the overall fee.

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14 (to date)	Total	Confidentiality clauses
No of settlement agreements	19	36	48	46	56	64	49	318	315
Cost	£0.3m	£0.6m	£0.8m	£1.2m	£1.6m	£2.0m	£1.0m	£7.6m	

On the specific point about the number of confidentiality clauses inserted at the request of any employee, there is anecdotal evidence to indicate that individuals have requested inclusion of a confidentiality clause to protect information pertinent to their own circumstances. However, given that in the past a confidentiality clause was part of the standard style agreement, it is not possible to determine on a case by case basis from the records held the extent to which such a clause was included because the employee or their representative requested it.

#### Protected Disclosure

You asked for information on the total number of protected disclosures made to NHSScotland over the last 5 years and the number of protected disclosures made by people who have signed settlement agreements since 2007. The Scottish Government does not hold this information centrally, but I am asking Health Boards to search their records on this and will update the Committee in due course.

#### Other information

Details of funding provided by the Scottish Government to each NHS Board to address capacity or financial issues in NHS Boards, along with the details of each Board's action plan for the use of that funding, are attached at Annex C.

A copy of the data referred to from the office of National Statistics on the comparison down of waiting time statistics across the UK is provided at Annex D.

You also asked about Precision Medicine, which is also known as Stratified Medicine. This involves developing treatment that is tailored to individual patients or groups of patients based on an in-depth understanding of the genetic causes of disease. Scotland is at the forefront of research in this field. For example, the new South Glasgow Hospitals campus hosts the Stratified Medicine Scotland Innovation Centre. This £20 million initiative, which included £8 million in funding from the Scottish Funding Council, involves industry, academic and NHS partners working together to produce world leading precision medicine approached for the treatment of chronic disease.

Yours sincerely

**Paul Gray**

# ANNEX A

Board	No. of Breaches of TTG 1 Oct 12 -31 Mar 13*	Compliance with section 10 of Patient Rights (Scot) Act 2011 as reported by Boards
Ayrshire and Arran	57	52 patients contacted by letter. The remaining 5 patients were brought in on the last day of the 12 weeks wait (day 84) – no letter sent as patient was treated on day 85. Board have advised that all patients will now get a letter meeting all the requirements set out in section 10 of the Act.
Borders	51	All compliant with the Act with the exception of the sections 10(2) (ci and ii) which relates to giving patient details of the patient advice and support service and how to give feedback, complain etc. Board now fully compliant with Act
Dumfries and Galloway	3	All compliant with the Act with the exception of sections 10(2) (ci and ii) which relate giving patient details of the patient advice and support service and how to give feedback, complain etc. Board now fully compliant with Act
Fife	148	All fully compliant with Act.
Forth Valley	39	All compliant with the Act with exception of section 10 (2) (c i) which relates to giving patient details of the patient advice and support service . Board now fully compliant.
Grampian	87	All patients got letters. However, some information - explanation for delay and details of the patient advice and support service and how to give feedback, complain not given. Board now fully compliant
Greater Glasgow & Clyde	1	Fully compliant with Act
Highland	325 <sup>+</sup>	IT systems changes in Highland meant that letter could not be issued. Therefore an interim solution to telephone each patient was put in place (which patients valued). To ensure that the requirements of the Act were followed NHS Highland now implementing new IT system during March 2014. Will be fully compliant after implementation.
Lanarkshire	1	Compliant with the exception of the sections 10(2) (ci and ii) which relate to giving patient details of the patient advice and support service and how to give feedback, complain etc. Board now fully compliant with Act.
Lothian	389	Compliant with Act
Orkney	0	n/a
Board	No. of Breaches of TTG 1 Oct 12 -31 Mar 13*	Compliance with section 10 of patient Rights (Scot) Act 2011 as reported by Boards
Shetland	3	Board phoned patients which the patients valued. Board now fully compliant with letter requirement and is also providing all the necessary information.
Tayside	113	103 patients received letter. Board phoned other patients which the patients valued. Board now compliant with the Act as letters now being issued to all patients.

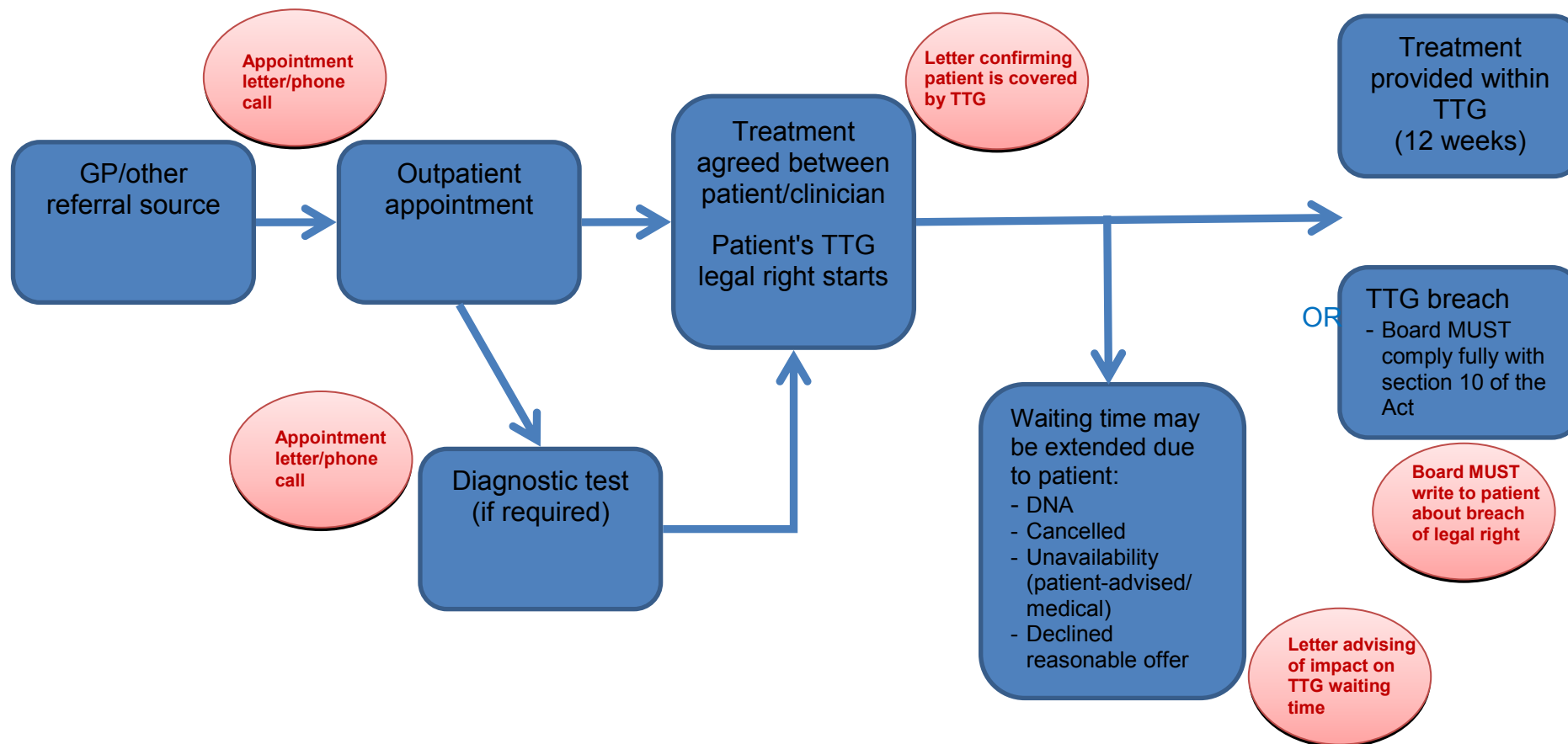
Western Isles	0	n/a
Golden Jubilee National Hospital	0	n/a
NHS Scotland	1,217	n/a

\* ISD Scotland

+ Highland had a high level of breaches however, the vast majority of these patients had declined treatment in Glasgow and wished to wait longer than the 12 week legal guarantee to get treated locally. The Board did not apply a period of patient advised unavailability for these patients – the TTG regulations allow for this and that is why they were shown as breaches of the guarantee.

# Flow chart of patient pathway indicating when letters are issued

ANNEX B



# NHS Scotland - Summary of Brokerage Arrangements: 2013-14 as at 13 March 2014

## NHS Orkney:

	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	Total
	£m	£m	£m	£m	£m	£m	£m	£m	£m	£m
Opening balance	-	1.110	2.121	4.057	4.057	3.812	3.812	3.812	0.848	-
Brokerage	1.110	1.011	2.259	-	0.750	-	-	-	-	5.130
Repayment (Capital)	-	-	(0.169)	-	(0.257)	-	-	-	-	(0.426)
Repayment (Revenue)	-	-	(0.154)	-	(0.738)	-	-	(2.964)	(0.848)	(4.704)
Closing balance	1.110	2.121	4.057	4.057	3.812	3.812	3.812	0.848	-	-

Revised March 2014 as part of financial plan.

Tailored support aligned to implementation of revised clinical strategy. Original brokerage provided over 3 year period from 2009-10 to 2011-12. Additional element of brokerage provided in 2013-14. Repayment rephased aligned to additional future NRAC parity funding, but remaining within the original timeframe.

## NHS 24:

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	£m	£m	£m	£m	£m	£m	£m
Opening balance	-	0.320	16.897	20.756	20.756	20.756	20.756
Maximum brokerage	0.320	16.577	3.859	-	-	-	-
Repayment	-	-	-	-	-	-	-
Closing balance	0.320	16.897	20.756	20.756	20.756	20.756	20.756

Repayment profile being renegotiated as part of LDP financial Plan

To support implementation of the new contracts for the Strategic Frontline Application (SFLA) programme. Brokerage of £0.320m provided in 2011-12 with a further £16.577m provided in 2012-13. During 2013-14 the position was revised to reflect the delay in implementation of the SFLA supported by a further £2.200m (plus the already planned £1.659m) of additional brokerage.

## NHS Forth Valley:

	2010-11	2011-12	2012-13	2013-14	2014-15	Total
	£m	£m	£m	£m	£m	£m
Opening balance	-	2.100	10.552	7.980	4.914	-
Brokerage	2.100	10.000	-	-	-	12.100
Repayment (Capital)	-	(1.548)	(2.572)	(1.883)	(3.685)	(9.688)
Repayment (Revenue)	-	-	-	(1.183)	(1.229)	(2.412)
Closing balance	2.100	10.552	7.980	4.914	-	-

Revised March 2014 as part of financial plan.

Transitional funding to support implementation of the Healthcare Strategy to be repaid from proceeds on disposal of fixed assets. Brokerage of £12.100m provided over 2 year period from 2010-11 to 2011-12. The repayment profile is likely to change in 2013-14 as the 2014-15 financial plan is approved. The Board will repay a proportion from revenue in 2013-14 and 2014-15.

**NHS Western Isles:**

	2011-12 £m	2012-13 £m	2013-14 £m	2014-15 £m	2015-16 £m	2016-17 £m	2017-18 £m
Opening balance	3.097	2.466	1.881	1.620	1.080	0.540	-
Repayment	(0.631)	(0.585)	(0.261)	(0.540)	(0.540)	(0.540)	-
Closing balance	2.466	1.881	1.620	1.080	0.540	-	-

Funding was provided in 2009-10 to support a historic deficit, following 2 years where the Board had balanced its books, in recognition of the progress that had been made and to allow the Board to move forward in a managed way ensuring patient services were not affected. No new brokerage provided in 2012-13.

**NHS Lothian:**

	2012-13 £m	2013-14 £m	2014-15 £m	2015-16 £m	Total £m
Opening balance	-	8.000	4.000	-	-
Brokerage	10.000	-	-	-	10.000
Repayment	(2.000)	(4.000)	(4.000)	-	(10.000)
Closing balance	8.000	4.000	-	-	-

Revised February 2014 with additional £1m repaid in 2013-14

Brokerage of £10m provided in 2012-13 to support waiting times pressures following discovery of anomalies in reporting waiting times figures (£2m re-paid in-year). Remaining £8m to be repaid equally in 2013-14 and 2014-15 (£4m in each year).

**NHS Tayside:**

	2012-13 £m	2013-14 £m	2014-15 £m	2015-16 £m	Total £m
Opening balance	-	2.250	4.850	0.800	-
Brokerage	2.250	2.850	-	-	5.100
Repayment	-	(0.250)	(4.050)	(0.800)	(5.100)
Closing balance	2.250	4.850	0.800	-	-

Revised in advance of financial plan approval - A7978521

Brokerage of £2.250m provided in 2012-13 to support deferment of key asset sale. £2m profit originally anticipated to be realised in 2013-14, now revised to 2014-15. Further £0.250m support for additional impairment / lease costs as a consequence of deferment (repaid in 2013-14). A further £2.850m agreed in 2013-14 along with an extended repayment profile.

**NHS Fife:**

	2011-12 £m	2012-13 £m	2013-14 £m	Total £m
Opening balance	-	1.110	2.150	-
Brokerage	1.110	1.400	-	2.510
Repayment (Capital)	-	-	(0.750)	(0.750)
Repayment (Revenue)	-	(0.360)	(1.400)	(1.760)
Closing balance	1.110	2.150	-	-

Tailored support of £1.110m provided in 2011-12, of which £0.750m was originally planned to be repaid through the sale of St Andrews Memorial Hospital in 2012-13, subsequently deferred to 2013-14. The Board also planned to benefit from the retained profit on disposal, therefore a further £1.400m was provided in 2012-13 to support this.

**NHS Highland:**

	2013-14 £m	2014-15 £m	2015-16 £m	Total £m
Opening balance	-	2.500	2.500	-
Brokerage	2.500		-	2.500
Repayment (Revenue)	-		(2.500)	(2.500)
Closing balance	2.500	2.500	-	-

Repayment profile tbc



## Waiting Times in the Four Home Nations

