Pay attention

A number of staff-related changes are due to come in next April and finance and human resource teams need to be ready for them. Steve Brown reports


SHUTTERSTOCK

NHS Improvement's analysis of providers' quarter one financial performance made for interesting reading. The £461m year-to-date deficit was £5m ahead of plan and total pay bill costs were £10m better than planned. But make no mistake: pay remains undoubtedly the key financial pressure facing the NHS. And a raft of seemingly small and technical changes for 2017 could be about to add to the burden – not all will lead to an increase in direct costs, but they may well make the achievement of cost improvement programmes harder.

The detail of NHS Improvement's analysis in fact revealed a continued overspend on agency and contract staff, in part driven by an inability to recruit to permanent positions. Cost improvement programmes were also £45m below plan and 80% of this shortfall related to under-delivery against planned pay savings.

Three changes due to kick in from April 2017 – relating to salary sacrifice schemes for staff, new apprenticeship arrangements and rules around off-payroll employment – could well add to these challenges.

Salary sacrifice

Revenue and Customs is currently consulting on changes to salary sacrifice arrangements that would reduce the associated tax and national insurance benefits for employees and employers. With salary sacrifice, an employee agrees to give up cash remuneration in return from some form of non-cash benefit in kind. The element of given-up salary is not chargeable to income tax nor is it liable for employee or employer national insurance contributions. (It also reduces pensionable pay.)

The government plans to change tax legislation so that where a benefit in kind is provided through salary sacrifice, it is chargeable to tax and (employer) national insurance. A few key areas – where the government wants to encourage uptake – would be excluded. These are:

- Pension contributions (not relevant to NHS pension scheme)
- Employer-supported childcare
- Bicycles/cycle to work.

However, employers have also used salary sacrifice to provide employees with cars, mobile phones, IT and even workplace parking. Under the proposals, they would still be able to do this, but the tax and national insurance advantages would be removed. From an employer perspective, they would continue to pay any associated administration costs for the schemes, but not save on national insurance contributions.

The HFMA will respond to the consultation, which closes in the middle of October, but has already called on NHS bodies to start thinking through the implications as the consultation suggests a start date of April 2017. Letting staff know about the changes involved in such arrangements would be the first consideration. The HFMA has particular concerns about the fairness of changing rules for staff who are effectively locked into existing arrangements. However, it has broader potential concerns too. The unwinding of existing schemes could exert an additional cost pressure (for employers and employees) – even if relatively small compared with overall spend.

One trust spoken to by *Healthcare Finance* saves about £300,000 a year overall on various car, IT and car parking schemes. It has not yet calculated the potential impact of the proposed changes on this saving, but says different schemes would be affected in different ways and to greater and lesser extents.

However, it said the administrative burden could be more significant. Car parking schemes may affect a large part of the workforce, for example, and there could be an impact on the perceived attractiveness of working for the organisation – which may be unhelpful, given the current push on improving recruitment and retention.

Apprenticeships

There will also be changes to the way the government funds apprenticeships next April, with some employers required to contribute to a new apprenticeship levy and changes to funding paid to employers to support apprenticeship training. Employers throughout the UK with

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a paybill of more than £3m a year will contribute to the levy at a rate of 0.5% of their annual pay bill minus a £15,000 allowance. Most NHS bodies will face the charge and the NHS collectively will be the single biggest contributor to the levy.

It is not a one-way street. NHS bodies in England will be able to access their funds from the levy – plus a small top-up – to support apprentice training. This will be accessed via a digital account set up for each organisation, with levy contributions added on a monthly basis (based on the previous month's pay bill) and topped up by central government.

However, there are clear concerns that the NHS will be unable to get as much out of the scheme as it puts in, which means that it will end up a net contributor. Health Education England estimates the NHS will contribute £200m to the levy in gross terms. There has been no estimate to date of what the NHS could hope to claw back, but NHS Employers argued from the outset that it would be 'very challenging for the NHS to get back what it puts in'.

The problem is that the levy contribution has been based on total employee earnings. According to NHS Employers assistant director for development and employment Ruth Warden, the NHS workforce includes large numbers of people for whom apprenticeship qualifications would not be sufficient to deliver the required skills – doctors and nurses are the prime examples.

'The numbers we need to make the maximum use of the levy is quite a big shift on where we are now,' says Ms Warden. In 2015/16, there were nearly 20,000 apprenticeship starts in the NHS. The target for public sector organisations is for apprenticeships (measured in starts) to account for 2.3% of total workforce each year. Across the whole English NHS, this has been estimated at around 28,000 apprenticeship starts.

This looks even harder to achieve when you take into account that many existing apprenticeships in GP practices and dental surgeries don't contribute to the set target. Stripping these out, the NHS starting position is more like 12,000 apprenticeships – meaning it would need to more than double its current activity.

Even if it makes the 28,000 target, there is no guarantee it would see the return of its £200m contribution to the levy. There are preset amounts that can be drawn down to fund the training of recognised apprentices. Many existing apprenticeships would currently be in bands 1-4 (typically healthcare assistant, catering or administrative roles) that might attract as little as £1,500 funding over 12 months.

To start getting a better return on its contribution, the NHS would need to ensure that it had significant numbers of higher level apprenticeships. These typically attract higher levels of funding, but they also often last several years and would only count towards the 'starts' target in the first year.

There is a lot of work going on centrally and locally to understand where apprenticeships could be used more to deliver required training and meet staffing needs. For example, an apprenticeship model is being explored for nursing.

While the rules relating to the levy contribution have basically been fixed, NHS Employers is hoping to influence some of the detail around how the scheme will work. For example, it is proposed that funds will expire 18 months after being placed in an organisation's digital account. 'We want the expiry to last three years, not 18 months, to allow the NHS to develop its apprenticeship frameworks,' says Ms Warden.

It would also like to see a broader approach taken to the definition of apprenticeship training – so that funds could be used to support mentorship, for example. But at this point, there is a significant danger that the new arrangements will provide an additional cost pressure on NHS providers in particular. One trust told *Healthcare Finance* that it had built in £750,000 as an additional cost pressure for next year, based on the full 0.5% of its payroll.

Off payroll

The government announced in the Budget earlier this year that it was planning to reform intermediaries rules for public sector workers. These earlier rules aimed to ensure that people doing the same job – whether employed directly or through a personal services company – pay broadly similar amounts of income tax and national insurance.

With the government perceiving widespread non-compliance, it wants to improve effectiveness of the rules in the public sector (currently known as IR35 rules). It consulted on its plans over the summer.

Under existing rules, the personal services company is required to assess whether the rules apply to a specific contract and, if so, work out any tax liability. The proposal is to move this responsibility to the public sector body, which, depending on its assessment of the case using an online tool, might then pay the worker through payroll having deducted tax and national insurance.

The HFMA says it is 'broadly supportive' of the proposals as members have been concerned about the complexity of the existing requirements for some time. It has called for greater clarity on the distinction between compliance with employment and tax law and reporting of off-payroll arrangements – thresholds apply for reporting but not for compliance, which can trigger penalties.

The association also wants more specific guidance on how GPs should be treated given their special status as independent contractors and the potential to support new models of care.

Finance practitioners suggest the proposals could increase the administrative burden on HR and finance teams. It doesn't necessarily help organisations identify cases in the first place. But if the tool works as promised – then it should at least provide a definitive answer on the appropriate payment approach for cases that have been spotted.

However, there is a concern that some contractors may withdraw from the NHS market if they cannot provide their services through a personal services company – making it harder for organisations to fill senior interim positions or source services from its preferred suppliers.

The NHS faces a huge agenda as it looks to hit challenging short-term financial targets while also addressing long-term sustainability issues. But all the changes discussed – salary sacrifice, appreniceships and off-payroll contractors – demand early attention from NHS bodies.

The clear message is to think thorough the implications now, rather than wait until new rules are implemented in April next year. And that means involving all the relevant departments, including finance, human resources and any payroll or accounts payable providers.