

6 April 2023

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REF: SHA/25759

**DISPUTE AGAINST NON-PAYMENT IN RESPECT OF
COVID-19 COSTS TO MJ LOCUM SERVICES LTD (“THE
APPELLANT”)**

Tel: 0203 928 2000
Email: nhsr.appeals@nhs.net

1 Outcome:

- 1.1 I, as an authorised officer of NHS Resolution, dismiss the appeal and confirm the decision of the NHS BSA not to pay the amounts appealed by the Appellant.

A copy of this decision is being sent to:

Temple Bright LLP on behalf of MJ Locum Services Ltd
NHS BSA on behalf of NHS England

Advise / Resolve / Learn

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1 INTRODUCTION

- 1.1 The Appellant appealed the non-payment of a claim for Covid-19 Payments.
- 1.2 The Secretary of State for Health and Social Care, pursuant to the National Health Service Litigation Authority (Pharmaceutical Remuneration – Payment Disputes) (England) Directions 2022 (the “Payment Disputes Directions”), has directed that NHS Resolution determines this type of appeal on their behalf. I, as an authorised officer of NHS Resolution, have made this determination.

2 BACKGROUND

- 2.1 I provided a previous determination dated 5 January 2023, in which I finally determined certain matters and provided the opportunity for the parties to provide further representations on certain other matters. I indicated that, on receipt of comments, I would make a final determination on any outstanding matters.
- 2.2 In relation to the discrepancies as to the unpaid amounts for director costs, I required the NHS BSA to explain its comment in its representations on this appeal where it states that it has used evidence from other categories, that was verified, to contribute towards the category 1 costs. I requested an explanation of:
 - 2.2.1 what evidence for another category was accepted for category 1 costs;
 - 2.2.2 why that evidence was accepted for category 1 costs; and
 - 2.2.3 whether the evidence from another category means the NHS BSA has agreed that a small proportion of the claimed director costs can be paid.
- 2.3 I also required the NHS BSA to consider and provide comments on whether any further evidence could hypothetically be used to evidence the working days/times and whether that evidence might be available here.
- 2.4 I required the Appellant to provide a more detailed explanation of the operation of the director loan account, including whether this is a usual arrangement, how it works in practice, why it works in this way, why in this particular case payment for the costs incurred between 1 March 2020 and 31 March 2021 was not made until early 2022, and what evidence can be provided that costs incurred within the relevant period were actually recorded in the account at that time (rather than retrospectively).

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- 2.5 I also required the Appellant to:
- 2.5.1 consider and provide comments on whether any other evidence could hypothetically be used to evidence the working days/times and whether that evidence is available here; and
 - 2.5.2 indicate when the sheet of times worked by the director was produced – whether this was contemporaneous with the days/times worked or produced afterwards.
- 2.6 I also required the NHS BSA to explain its view of use of the director loan account as a means of recording a cost to the company incurred during the relevant period even if the actual payment to the director of that cost is not made until sometime after the end of the relevant period.
- 2.7 I encouraged the parties, when providing their comments on use of the director loan account, to have regard to my point at paragraph 8.37 of the determination in relation to later payments of costs for other matters.
- 2.8 Each party was provided with a copy of the other party's further representations and provided with the opportunity to make any final observations. All comments received have been shared with all parties.

3 FURTHER REPRESENTATIONS

- 3.1 In its further representations, the Appellant stated:
- 3.1.1 "I write further to your determination dated 5th January 2023. In relation to the matters raised in that determination, my client responds as follows:
 - 3.1.2 **1.4 I require the Appellant to provide a more detailed explanation of the operation of the director loan account, including whether this is a usual arrangement, how it works in practice, why it works in this way, why in this particular case payment for the costs incurred between 1 March 2020 and 31 March 2021 was not made until early 2022, and what evidence can be provided that costs incurred within the relevant period were actually recorded in the account at that time (rather than retrospectively).**
 - 3.1.3 Please see attached letter from the company's accountants.
 - 3.1.4 **1.5 I also require the Appellant to:**
 - 3.1.5 **1.5.1 consider and provide comments on whether any other evidence could hypothetically be used to evidence the working days/times and whether that evidence is available here;**
 - 3.1.6 My client has given this matter some careful thought. Please find attached letters from members of staff who worked at the pharmacy confirming that Mr Jain attended at the pharmacy much more frequently during the relevant period than was his usual practice.
 - 3.1.7 If NHS Resolution considers that it would be assisted by any other evidence or documentation then please do not hesitate to request this and my client will do its best to assist.
 - 3.1.8 **1.5.2 indicate when the sheet of times worked by the director was produced – whether this was contemporaneous with the days/times worked or produced afterwards.**

- 3.1.9 I am instructed that Mr Jain kept a contemporaneous note that he then transferred into excel.
- 3.1.10 I hope that the above assists NHS Resolution with its determination of this matter and look forward to hearing from you in due course.”
- 3.1.11 The Appellant provided the following:
- 3.1.11.1 *DH Business Advisors Letter* – this is a letter from the pharmacy’s accountants, responding to the questions referred to at paragraph 2.4 above;
- 3.1.11.2 *HR Manager Letter* – A typed letter from the HR Manger at the pharmacy in question, indicating that the pharmacy director, “Mo”, was present more frequently from March 2020 – April 2021 as compared to before this period;
- 3.1.11.3 *Responsible Pharmacist Letter* – a typed letter from a pharmacist at the pharmacy, similarly indicating that Mr Jain was in the pharmacy more often during the same period as compared to previously; and
- 3.1.11.4 *Pharmacy Assistant Letter* – a final, handwritten, letter from the pharmacy assistant also indicating that the pharmacy director, “Mojo”, was present more frequently “during covid”.
- 3.2 In its further representations, the NHS BSA stated:
- 3.2.1 “In regard to the above, please find further comment from the NHSBSA laid out in such a manner as to answer NHS Resolutions expectations:
- 3.2.2 1.2 In relation to the discrepancies as to the amounts unpaid for director costs, I require the NHS BSA to explain its comment in its representations on this appeal where it states that it has used evidence from other categories, that was verified, to contribute towards the category 1 costs. I need an explanation of:
- 3.2.3 1.2.1 what evidence for another category was accepted for category 1 costs;
- 3.2.4 As provided in the NHSBSA’s representations, a refined table was produced to clear up the confusion with accepted costs.
- 3.2.5 Evidence that was provided for category 2 and 3 costs amounted to more than was originally claimed by the Appellant in each of these categories. Mistakenly, the amounts by which the evidence for both categories exceeded that which was claimed in each, £1,742.47 and £1,400.95 respectively (£3,143.42 total), were used to cover some category 1 costs.
- 3.2.6 Category 3 costs seen in **Attachment 14 (1).pdf** and **Attachment 15 (1).pdf** came to a total of £8,406.84, whereas the Appellant had claimed £7,005.89 in this category. The resulting difference, £1,400.95, was mistakenly carried over into category 2 costs.
- 3.2.7 For category 2 costs, a series of attachments ranging from **Attachment 5 (1).pdf** to **Attachment 13e.pdf** were accepted with a total of £48,425.73. This ranged from works done on the premises to additional signs.
- 3.2.8 An additional £26,760.00 was factored into the category 2 costs for a cleaner. In the NHSBSA’s original determination, this was a category 1 cost but was later changed to category 2 due to the supplied email **Fwd_ Evidence Request For Covid-19 Costs - FPR03.msg**. Overall, this brings the total

amount evidenced for category 2 to £74,844.21. This is over the £73,443.26 claimed and the amount that exceeded this, £1,400.95, was carried over into category 1 costs.

- 3.2.9 Accepted evidence for category 1 costs were the payroll comparisons provided to the NHSBSA showing staff costs totalling £76,409.71 (**Attachment 1.pdf**). Locums costs of £15,548.00 were accepted, including a payment of £2,598.00 made on 15/06/21 in **Bank statements - locum payments.pdf**. These evidenced costs total £91,957.71 which, with the addition of the amounts carried over from category 2 and 3, come to a final sum of £95,101.13.
- 3.2.10 1.2.2 why that evidence was accepted for category 1 costs; and
- 3.2.11 The evidence was accepted for category 1 costs mistakenly, partly originating from the confusion around the category which the cleaner's costs were being claimed under.
- 3.2.12 1.2.3 whether the evidence from another category means the NHS BSA has agreed that a small proportion of the claimed directors costs can be paid.
- 3.2.13 The NHSBSA has accepted no evidence for directors' costs as part of its payment verification of MJ Locum Services Ltd's claim.
- 3.2.14 If NHS Resolution were to make the decision that director costs should be paid, only the outstanding amount of £55,330.44 would require payment due to the carried over amounts from category 1 and 2.
- 3.2.15 1.3 I also require the NHS BSA to consider and provide comments on whether any further evidence could hypothetically be used to evidence the working days/times and whether that evidence might be available here.
- 3.2.16 Any further evidence would need to support the working times listed in **Attachment 3 (3).pdf** and allow verification that work was carried out on at least some of those dates.
- 3.2.17 Detail on the type of work carried out was provided in the pharmacy's claim form (**Pharmacy COVID19 costs claim form FOR SUBMISSION.xlsx**):
- 3.2.18 *"Director's hours that have been worked as a direct result of the significant increased overall workload, due to COVID 19 included but not limited to the following tasks; Planning staff rotas and covering for staff that were ill, shielding or self isolating due to COVID, time spent dealing with updates and changes to regulations from the Department of Health and NHE England and PHE. Planning staff safety measures to ensure their safety and to implement COVID 19 secure measures. Procuring stock for NHS prescriptions during a time when the whole market was at crisis point with shortages."*
- 3.2.19 The NHSBSA is unsure if the Appellant would be listed as a responsible pharmacist on the pharmacy's responsible pharmacist log but, if so, this would go a large way to verifying the dates worked.
- 3.2.20 An alarm log would be another possible piece of evidence. This would need to include the Appellant's name to verify their presence at the pharmacy.
- 3.2.21 Other potential forms of evidence could be related to the work quoted above e.g. emails relating to the ordering of stock by the Appellant.
- 3.2.22 1.6 I also require the NHS BSA to explain its view of use of the director loan account as a means of recording a cost to the company incurred during the relevant period even if the actual payment to the director of that cost is not

made until some time after the end of the relevant period. Given I require the Appellant to provide a more detailed explanation of the director loan account, I am happy for the NHS BSA to comment on this after I circulate the Appellant's explanation to it.

- 3.2.23 The NHSBSA has no concern regarding the use of a director loan account. Its understanding is that this is common practice. However, supporting evidence should be provided detailing the work that was carried out for which the payment(s) are attributable. The payments should also be detailed in an official capacity such as with account statements.
- 3.2.24 The NHSBSA made the decision that there was a lack of clarity with the Appellant's evidence in regard to use of a director loan account, whilst also lacking the aforementioned supporting evidence of the work that was carried out.
- 3.2.25 It is unclear if the statement (*M j locum services ltd.pdf*) provided belongs to a loan account and the payment highlighted does not match that which was stated by the Appellant's accountant (*Letter from Accounts.pdf*)."
- 3.2.26 The NHS BSA provided the following:
- 3.2.26.1 A number of attachments relating to category 2 and 3 costs. These were provided by the Appellant to the NHS BSA as part of their original Covid-19 costs claim. I will not go into detail regarding these as they are not disputed by either party, and were provided in order to clarify the outstanding costs and reasons for the payment of certain directors costs, as I requested at paragraph 2.2;
- 3.2.26.2 *Fwd_Evidence Request for Covid-19 Costs – FPR03*, an email dated 29 September 2021 from the pharmacy detailing the Covid-19 costs being claimed, the categories under which they fall and attaching the evidence to support said claims;
- 3.2.26.3 *Attachment 1* which shows payroll comparisons for staff between the period of 2019-2020 and 2020-21 for the period specified in the Drug Tariff;
- 3.2.26.4 *Bank Statements – locum payments* – a photocopy of the HSBC business account for M J Locum Services showing multiple payments highlighted in green that contain the word "LOCUM" in the details;
- 3.2.26.5 *Attachment 3(3)* – this is a photocopy of a document titled "ADDITIONAL HOURS WORKED DURNG COVID – MANMOHAN JAIN". It shows the date, the day and the hours worked for each one. These are all tallied to total 1305 hours, paid at £45 per hour to get a total of £58,725.00. This was provided by the Appellant as proof of the hours worked.
- 3.2.26.6 *Pharmacy COVID19 costs claim form FOR SUBMISSION* – which is a copy of the original claim form submitted by the pharmacy. Half of the page is missing for each part of this document, and so only the left hand side is visible, which provides limited information regarding the amount of costs claimed for each category;
- 3.2.26.7 *M j locum services ltd* – a second copy of the HSBC business account, however, instead of locum payments a payment on 10 January 2022 is highlighted. This is described as "MANMOHAN JAIN COVID PAYMENT" and is for the amount of 58,725.

3.2.26.8 *Letter from Accounts* – this is a photocopy of a letter from DH Business Advisors in which they indicate that the pharmacy director worked 1260 hrs additional for the year ended 28 February 2021, paid through the Director Loans account.

3.2.26.9 *Director Loan Account Statement* – a document that indicates multiple credits against the directors loan account, including £58,725 credited as “Subcontractor Wages (Covid Hours) with a comment £2025 for March 2021 period.

4 FURTHER OBSERVATIONS

4.1 The Appellant stated:

4.1.1 “I write further to your letter of 10th February 2023 and in order to respond to comments made on my client’s appeal by NHSBSA.

4.1.2 As a preliminary matter, as NHS Resolution will be aware, one of the difficulties with the Covid-19 costs reimbursement scheme is that it was introduced retrospectively. This means that at the time that the costs were being incurred, contractors had no indication of the scheme and how it would operate so that contractors were denied the opportunity to know and understand, beforehand, what costs would be claimable and how those costs should be evidenced.

4.1.3 It is therefore respectfully submitted that costs claims should be considered in light of the fact that the reimbursement scheme was introduced retrospectively and, to the extent that there is a burden of proof upon contractors to provide suitable and sufficient evidence to support claims, this should be applied with the above context in mind.

4.1.4 In relation to the matters raised by NHSBSA in its response to this appeal, my client comments as follows:

4.1.5 ***The NHSBSA is unsure if the Appellant would be listed as a responsible pharmacist on the pharmacy’s responsible pharmacist log but, if so, this would go a large way to verifying the dates worked.***

4.1.6 Mr Jain only rarely worked as the responsible pharmacist as the company employed pharmacy managers who had very little time off during the pandemic and covered for each other as required. The time for which claims are being made pursuant to the Covid-19 costs reimbursement scheme relates to additional support as detailed in previous correspondence.

4.1.7 ***An alarm log would be another possible piece of evidence. This would need to include the Appellant’s name to verify their presence at the pharmacy.***

4.1.8 Mr Jain has already commented upon this in previous correspondence. He does not live locally and is not an alarm fob holder as the regular, local, staff members open and close the pharmacy. As previously stated, Mr Jain’s additional duties were undertaken during the pharmacy’s usual opening times.

4.1.9 ***Other potential forms of evidence could be related to the work quoted above e.g. emails relating to the ordering of stock by the Appellant.***

4.1.10 Mr Jain has carefully considered what additional evidence may be provided and statements from member of staff have been supplied confirming that Mr Jain was present at the pharmacy much more frequently during the relevant period.

- 4.1.11 In terms of stock ordering, this is all done electronically either via the electronic ordering system or the online portal. Stock ordering is not done via email.
- 4.1.12 In relation to the directors' loan account, Mr Jain comments as follows:
- 4.1.13 ***The payments should also be detailed in an official capacity such as with account statements.***
- 4.1.14 It is not clear what NHSBSA is referring to, as the bank account statements are provided within the bundle (see page 59 of the NHSBSA response bundle). There is no separate DLA bank account. The company's accountant has subsequently explained how the DLA works and the company's formal accounts have been produced which show the increase in the DLA during the reference period.
- 4.1.15 Mr Jain understands that director costs for other contractors which have been paid through a directors' loan account have been paid by NHSBSA without question.
- 4.1.16 ***It is unclear if the statement (M j locum services ltd.pdf) provided belongs to a loan account and the payment highlighted does not match that which was stated by the Appellant's accountant (Letter from Accounts.pdf).***
- 4.1.17 The statement at page 59 of the NHSBSA response bundle is from the main business pharmacy account. As stated above, no DLA bank account exists.
- 4.1.18 The payment of £58725.00 comprises of 1305 hours x £45 = £58725.00 (as documented at pages 45 to 52 of the NHSBSA response bundle).
- 4.1.19 The letter from the company's accountants dated 1st December 2021 (at page 60 of the NHSBSA response bundle) refers to 1260 hours up to the year ended 28th February 2021. The remaining 45 hours fell into the following financial year (i.e. March 2021).
- 4.1.20 I hope that this is of assistance to NHS Resolution and look forward to hearing from you in due course."

5 CONSIDERATION

- 5.1 This determination should be read alongside my previous determination (dated 5 January 2023) which set out the relevant provisions of the Drug Tariff.
- 5.2 In my previous determination I requested that the NHS BSA provide clarification on exactly what amount was outstanding in relation to category 1 costs claimed by the Appellant under the Drug Tariff. It has now clarified that this appeal relates only to additional staff costs due to Covid-19 to the amount of £55,330.44 relating to Mr Jain's director costs. I note the reasons for the discrepancy between this amount and the £58,725.00 requested by the Appellant is set out by the NHS BSA at paragraphs 3.2.4 - 3.2.14, and I determine that it is the figure of £55,330.44 that is the amount under consideration in this determination.
- 5.3 The Appellant has provided the following as evidence of director costs:
- 5.3.1 The *Letter from Accounts* at paragraph 3.2.26.8
- 5.3.2 *Attachment 3(3)* at paragraph 3.2.26.5;
- 5.3.3 *M j locum services* at paragraph 3.2.26.7;
- 5.3.4 *Director Loan Account Statement* at paragraph 3.2.26.9;

- 5.3.5 *DH Business Advisors Letter* at paragraph 3.1.11.1; and
- 5.3.6 The three letters from pharmacy staff at 3.1.11.2 onwards.
- 5.4 The last two elements listed above have been provided by the Appellant as part of this final determination.
- 5.5 The NHS BSA have stated that there are two grounds upon which the decision to not pay the Appellant was made, following the receipt of the further representations. These are:
- 5.5.1 The lack of clarity surrounding the director loan account; and
- 5.5.2 The need for supporting evidence in order to verify the working times indicated by the Appellant in *Attachment 3(3)*.
- 5.6 I will deal with each of these arguments in turn.
- 5.7 Firstly, regarding the director loan account payments, I consider the outstanding questions raised by the NHS BSA at 3.2.25 have been answered by the Appellant in its further observations. The bank account statements provided by the Appellant relate to the business account, from which payments have been made to pay the debt under the director loan account. I note that there is no separate bank account for the director loan account. The reasons for the total amount claimed not matching the *Letter from Accounts* is that the time period referred to in the letter does not include March 2021 and so is missing additional hours. The Appellant has also provided the DH Business Advisors Letter, in which the accountants clarify the reasoning for why the payment was made outside of the relevant period.
- 5.8 I consider that, simply because payment was made outside the relevant period, this is not conclusive that Covid-19 related costs were not incurred within the relevant period. The Drug Tariff expressly refers to costs incurred, not costs paid. It states:
- 5.8.1 *“Pharmacy contractors can claim for specific categories of Covid-19 related costs incurred between 1 March 2020 and 31 March 2021 [emphasis added] in delivery of NHS pharmaceutical services.”*
- 5.9 There is no definition of “incurred” in the Drug Tariff. Giving it its ordinary meaning, it is possible that a pharmacy may incur costs at a certain time but actually pay those costs at a later date. Evidence of payment does not necessarily indicate the date upon which the costs to the pharmacy covered by that payment were actually incurred. Given the explanation provided by the Appellant, the evidence provided in the two letters from DH Business Advisors and the information provided in the *Director Loan Account Statement* I determine that these costs were incurred during the period of 1 March 2020 to 31 March 2021 and, should other requirements of the Drug Tariff be met, are eligible for reimbursement.
- 5.10 On the second point, regarding evidence to verify the director days and times of additional Covid-19 related work, I made comments in my previous determination on the need for evidence and that, as an overarching principle in relation to claims for reimbursement of additional staff, if the evidence provided is of an extent, type and nature that reasonably satisfies me that additional staffing costs of a kind and nature listed in Table 1 were incurred and the amount is reasonable taking into account the evidence, then I would consider that the claim should be reimbursed.
- 5.11 I must reiterate that a pharmacy must accept that if additional staff are engaged and the pharmacy seeks reimbursement in respect of those additional staff, then the extent of reimbursement will depend on the extent, type and nature of the evidence. The stronger and more cogent the evidence, the higher the likelihood that the reimbursement claim will be successful.

- 5.12 I am sympathetic to the situation of the Appellant and I note the comments provided on the retrospective nature of this matter. I consider that the Appellant's analysis of the situation is correct, in that, due to the retrospective nature of provisions in the Drug Tariff relating to the reimbursement claims, it may be difficult to show strong evidence of the times worked by a director.
- 5.13 It is my view that the Drug Tariff requires reasonable evidence to be provided to support a claim for costs. The Drug Tariff does not make provision for me to ignore the need for evidence. I consider that this applies to a situation where a specific type of costs, for example director costs, are not expressly set out in the Drug Tariff. I consider that I am therefore limited in the extent to which I can depart from the intention for evidence that is clear from the wording in the Drug Tariff.
- 5.14 In my previous determination I requested that the NHS BSA consider and provide comments on whether any further evidence could hypothetically be used to evidence the working days/times and whether that evidence might be available here. The NHS BSA has provided a statement on this at paragraph 3.2.16 above. I consider that, to satisfy the evidentiary requirements and the level of objectivity required, if clearly objective evidence such as payslips cannot be provided, a reasonable level of corroborating evidence is necessary.
- 5.15 I have therefore considered the extent to which the evidence provided is objective and the level of corroboration of the evidence provided. The Appellant has provided a timesheet of the hours worked, *Attachment 3(3)*, and confirmed in their further representations that this is a contemporaneous account of the hours worked by Mr Jain. This cannot reasonably be considered clearly objective evidence as it was produced by the director. Other evidence refers to the hours, including the *Letter from Accounts* and the three letters from workers at the pharmacy.
- 5.16 In relation to the Letter from Accounts and as explained in DH Business Advisors second letter, their decisions are based on the information provided by the director to them. This cannot therefore be considered any more objective, in relation to the days and hours worked by the director, than the timesheet of hours worked. As would be expected, a pharmacy's accountants are very unlikely to be able to state that the director was actually in the pharmacy carrying out those tasks on the dates and times listed by the director. Its value as corroborative evidence of the dates and times worked is similarly diminished for the same reason.
- 5.17 I have considered the letters provided by others working at the pharmacy during the relevant period. Each one states that there was increased activity and presence in the pharmacy by the director during the period of 1 March 2020 to 31 March 2021 as compared to before that period. I have considered the extent to which this evidence is objective. These are statements provided by individuals engaged or employed by the pharmacy. This information is not based on information provided by the director and is therefore objective evidence but the statements do not provide detail on the days and times the director worked. In relation to the level of corroboration provided, while they refer to seeing the director in the pharmacy more during the relevant period, there is no corroborating evidence of the days and times listed by the director. There are vague references to late night working and the director being in the pharmacy several times a week but the statements do not corroborate any specific days or times.
- 5.18 I should note that this is no criticism of those individuals. I would be very surprised if the individuals could remember specific days and times given the passage of time and that these individuals are recalling events that happened 2-3 years ago. As indicated previously I am sympathetic to the Appellant's position. It has explained why it cannot provide the potentially more objective and corroborating evidence suggested by the NHS BSA (i.e. responsible pharmacist records, alarm logs or emails to suppliers ordering stock).

- 5.19 I must therefore determine whether I consider the evidence provided in relation to the director costs, taking into account the extent to which that evidence is objective and/or corroborating, satisfies me that the evidentiary burden intended by the Drug Tariff wording has been met.
- 5.20 My determination is that I am not satisfied.
- 5.21 This is not a determination that I have arrived at easily. The wording in the Drug Tariff contains no express reference to the types of evidence that would be acceptable for the work of a director who is not usually in receipt of a payslip. I consider that to accept the evidence provided by the Appellant means I would be relaxing the threshold for objective and/or corroborating evidence further than the intent of the Drug Tariff.
- 5.22 As indicated in my previous determination, this is public money. I consider that, to agree that costs should be reimbursed, I have to be satisfied that reasonably objective and/or corroborating evidence has been provided. I do not consider that I have the discretion, either in the delegation to me to determine this appeal or in the wording of the Drug Tariff itself, to relax this requirement.
- 5.23 As a consequence of my comments above, I determine that the remaining £55,330.44 claimed by the Appellant for director costs need not be paid by the NHS BSA.

6 DECISION

- 6.1 I have had regard to the Payment Disputes Directions which provide me with three options:
- 6.1.1 dismiss the appeal and confirm the decision;
 - 6.1.2 substitute for the decision any decision could have been taken; or
 - 6.1.3 quash the decision, with or without remitting the matter for it to be taken again subject to such directions as NHS Resolution considers appropriate.
- 6.2 I, as an authorised officer of NHS Resolution, dismiss the appeal and confirm the decision of the NHS BSA not to pay the amounts appealed by the Appellant.

**Head of Appeals
NHS Resolution**