

Clinical commissioning group guidance on senior appointments, including accountable officer



NHS England INFORMATION READER BOX**Directorate**

Medical	Operations and Information	Specialised Commissioning
Nursing	Trans. & Corp. Ops.	Commissioning Strategy
Finance		

Publications Gateway Reference: 06483

Document Purpose	Guidance
Document Name	Clinical commissioning group guidance on senior appointments including accountable officers
Author	NHS England, CCG Assessment team
Publication Date	March 2017
Target Audience	CCG Clinical Leaders, NHS England Regional Directors, NHS England Directors of Commissioning Operations
Additional Circulation List	CCG Accountable Officers, Directors of HR
Description	Policy and procedures for appointing a new accountable officer to a clinical commissioning group
Cross Reference	N/A
Superseded Docs (if applicable)	Clinical commissioning group guidance on senior appointments including accountable officers
Action Required	To note
Timing / Deadlines (if applicable)	N/A
Contact Details for further information	CCG Assessment team england.ccgiaf@nhs.net

Document Status

This is a controlled document. Whilst this document may be printed, the electronic version posted on the intranet is the controlled copy. Any printed copies of this document are not controlled. As a controlled document, this document should not be saved onto local or network drives but should always be accessed from the intranet.

Clinical commissioning group guidance on senior appointments, including accountable officer

First published: January 2014

Revised: October 2015

Revised Further: March 2017

Prepared by: Operations and Information

Equality and Health Inequalities statement

Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have:

- Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it; and
- Given regard to the need to reduce inequalities between patients in access to, and outcomes from healthcare services and to ensure services are provided in an integrated way where this might reduce health inequalities

Contents

1 Introduction..... 5

2 Policy statement 5

3 Recruitment and selection to senior roles in CCGs 5

4 Senior Remuneration – controls and approvals..... 6

5 The role of the AO of a CCG 6

6 The procedure for appointing an AO 7

7 The procedure for the appointment and selection of other key roles, including the chair of the governing body, the CFO and the Chief Operating Officer 8

Annex 1 – persons disqualified from membership of CCG governing bodies 9

Annex 2 – new appointment pro forma 10

Annex 3 – table of roles and responsibilities for appointing an AO..... 13

1 Introduction

1. This document supersedes *Clinical commissioning group guidance on senior appointments, including accountable officer*¹ published in October 2015, and should be used by Clinical commissioning groups (CCGs) and NHS England as guidance when appointing a new accountable officer (AO).
2. This updated guidance acknowledges the changes that have taken place within NHS England since October 2015, and updated roles and responsibilities for CCGs and NHS England when appointing new AOs.

2 Policy statement

3. This NHS England policy documents the process CCGs should follow when appointing an AO.
4. Clause 12(2) of Schedule 1A part 2 of the NHS Act 2006 (as amended) (“the Act”) provides that the AO is to be appointed by the NHS Commissioning Board (known as NHS England). This means the appointment is made by the Chief Executive of NHS England, as the Accounting Officer for the NHS commissioning system.
5. Subject to the requirements of the Act set out in 4 above, CCGs are responsible for recruiting and selecting their leadership team and this policy document confirms advice for appointing to senior roles in CCGs (chair of the governing body, AO and chief finance officer (CFO)) which was established during transition by NHS England. The AO must be (or become) a member of the CCG governing body.
6. The requirement that the AO is to be appointed by NHS England does not affect the employment status of an AO, and the AO remains an officer, member or employee of the CCG.
7. The policy details the responsibilities of the respective elements of the commissioning sector and the process CCGs and NHS England should follow in making an appointment of an AO. It also reconfirms best practice in relation to the appointment of a CFO and chair of governing body.
8. Both a CCG and NHS England have an important role in the appointment of an AO to a CCG, as set out in legislation, as detailed above.

3 Recruitment and selection to senior roles in CCGs

9. Guidance for appointing to senior roles in CCGs is set out in section six of the *CCG HR guide*².
10. CCGs are responsible for the recruitment and selection process for the appointment of chair of the governing body, AO and CFO. NHS England plays a particular legal role in the appointment of the AO.

¹ <https://www.england.nhs.uk/wp-content/uploads/2015/10/ccg-snr-appt-guidance.pdf>

² <http://webarchive.nationalarchives.gov.uk/20161102154238/http://england.nhs.uk/wp-content/uploads/2012/05/ccg-hr-guide.pdf>

11. CCGs will be responsible for ensuring the recruitment and selection process ensures that any candidate appointed to senior positions can demonstrate the experience and skills required for that post. This will include professional qualifications where appropriate, for example the CFO. Recruitment and selection should give CCGs assurance that individuals have the skills and competence to take on these senior roles.
12. It would be beneficial for potential AOs to undertake an assessment centre to ensure their suitability to the role and to ensure a bespoke development plan is in place, as is good practice for all senior leaders. This could be sourced for example through their NHS Leadership Academy local delivery partners. Any such programme should be funded by the recruiting CCG.
13. Taking into account the benefits of equality and diversity in the workplace, CCGs should pay due regard to the public sector equality duty during all of their recruitment and selection processes including those for AOs.

4 Senior Remuneration – controls and approvals

14. CCGs are now subject to the same controls on senior remuneration as NHS providers. Consequently, when a CCG is seeking to appoint a Clinical Chief Officer or Chief Officer who will hold the AO role, or any other senior staff member on a Very Senior Manager (VSM) contract of employment, early consideration has to be given to the level of remuneration proposed for the post. Where the remuneration proposed is anticipated to exceed £142,500 pa (pro-rata), under requirements promulgated from time to time, CCGs will now require formal consent from Ministers before the role can be advertised. If the appointment does not exceed £142,500 pa (pro-rata), then no further approvals are required and the CCG Remuneration Committee can determine the remuneration in accordance with existing guidance³.
15. When planning for Clinical Chief Officer / Chief Officer recruitment or any other senior staff member on a VSM contract of employment, CCGs are therefore advised to make early contact with the relevant NHS England Director of Commissioning Operations and Regional Director of People and Organisational Development to discuss the proposed remuneration level and to seek further advice on the approvals process to be followed in respect of Ministerial consideration for senior remuneration levels in excess of £142,500 pa (pro-rata). NHS England's role is to review such proposals and opine on them prior to any submission being made for Ministerial consideration.

5 The role of the AO of a CCG

16. Each CCG needs to decide which individual it will nominate to undertake the AO role. It is for the Chief Executive of NHS England, as the Accounting Officer for that organisation, to confirm the appointment to this role. This does not create an employment relationship between the AO and NHS England.
17. The individual who undertakes the AO role is required to be a member of the CCG's governing body and therefore needs to meet the core requirements for

³ <https://www.england.nhs.uk/wp-content/uploads/2012/03/Remuneration-guidance-final.pdf>

governing body members. There are also very specific responsibilities associated with the role of AO that must be met.⁴

18. Once an individual has been successful in the selection process, to carry out the duties of the AO they may be either:
- An employee of the CCG, or an employee of any member of the CCG;
 - A member of the CCG (e.g. a GP); or,
 - A person specified in the constitution.
19. In the case of joint appointments to the role of AO for two or more CCGs, the same provisions apply. The CCGs involved should determine which of them will be the employing body.
20. The AO may not also hold the position of chair of the governing body, nor may the CFO.
21. Regulations also provide that some individuals are not eligible to be appointed to CCG governing bodies. These are summarised in annex 1. Full details are detailed in schedules four (which deals with lay membership) and five of *The National Health Service (Clinical commissioning groups) Regulations 2012*.⁵ The effect of the provisions of Schedule Five is that MPs, Local Authority Councillors and employees or members of organisations that support the CCG in delivery of services are amongst those precluded from being members of the governing body. This includes any NHS England employee as well as Commissioning Support Unit (CSUs) employees. As the AO must be a member of the CCG's governing body none of the individuals listed above can therefore be the AO.
22. AO appointments must also take account of the Professional Standards Authority standards for members of NHS boards and CCG governing bodies in England.⁶

6 The procedure for appointing an AO

23. The CCG is responsible for ensuring that the AO it nominates meets all the requirements of the role as set out, and is a fit and proper candidate. It is the responsibility of the CCG to thoroughly assess the candidates. It will be important that the CCG can demonstrate it has followed a fair and open recruitment process, which complies with the relevant legislation.
24. Once the recruitment exercise is concluded the CCG must notify their relevant Director of Commissioning Operations (DCO) by submitting a new appointment pro forma (annex 2). The pro forma must be completed in full, and include details of the recruitment process and the steps the CCG has taken to assure itself of the AO designate's fitness for the role. CCGs may wish to seek advice in advance from NHS England on how the CCG can assure itself of the candidate's fitness for the role, such as use of an assessment centre, and support in the recruitment and selection process. It is strongly recommend that CCGs ensure the DCO or a

⁴ <https://www.england.nhs.uk/wp-content/uploads/2016/09/ccg-members-roles.pdf>

⁵ <http://www.legislation.gov.uk/ukxi/2012/1631/made>

⁶ <http://www.professionalstandards.org.uk/library>

senior representative from the DCO team, sits on the recruitment and selection panel.

25. The DCO team will assess the process that the CCG has undertaken, ensuring that the CCG has followed robust procedure before submitting the nomination to their Regional Director. If the proposed appointment is not supported by the DCO or Regional Director the nomination will not be progressed to the next stage of review. Once reviewed by the Regional Director, the pro forma and supporting documents will then be sent through to the Central CCG Assessment team for action.
26. NHS England intends to provide a response from the Chief Executive within four weeks from the date of receipt of the CCG's nomination by the DCO.
27. If an AO appointment is not supported by the Chief Executive, the CCG and the NHS England DCO may be asked to review the appointment and process. The Chief Executive may appoint an interim AO while this process is undertaken.
28. A table is included at annex 3 which sets out the roles and responsibilities for this process.

7 The procedure for the appointment and selection of other key roles, including the chair of the governing body, the CFO and the Chief Operating Officer

29. NHS England considers it best practice for CCGs to work with the relevant DCO to demonstrate that new individuals appointed to undertake these roles are able to meet the specifications outlined in *Clinical commissioning group governing body members: role outlines, attributes and skills*⁷, as well as the legal requirements in the Act and *The National Health Service (Clinical Commissioning Groups) Regulations 2012*.
30. Through the CCG assessment process, NHS England will take stock of any significant changes in the leadership team to remain assured that the CCG continues to meet the criteria in the "Leadership" component of the CCG Improvement and Assessment Framework.

⁷ <https://www.england.nhs.uk/wp-content/uploads/2016/09/ccg-members-roles.pdf>

Annex 1 – persons disqualified from membership of CCG governing bodies

Schedule 5 of the NHS (CCG) Regulations 2012 state that the following are disqualified from membership of CCG governing bodies:

- MPs, MEPs, members of the London Assembly, and local councillors (and their equivalents in Scotland and Northern Ireland);
- Members including shareholders of, or partners in, or employees of commissioning support organisations;
- A person who, within the period of five years immediately preceding the date of the proposed appointment, has been convicted:
 - a) In the United Kingdom of any offence,
 - b) Outside the United Kingdom of any offence which, if committed in any part of the United Kingdom, would constitute a criminal offence in that part, and
 - c) In either case, the final outcome of the proceedings was a sentence of imprisonment (whether suspended or not), for a period of not less than three months without the option of a fine;
- A person subject to a bankruptcy restrictions order or interim order;
- A person who within the period of five years immediately preceding the date of the proposed appointment has been dismissed (other than because of redundancy), from paid employment by any of the following: the board, a CCG, SHA, PCT, NHS Trust or Foundation Trust, a Special Health Authority, a Local Health Board, a Health Board or Special Health Board, a Scottish NHS Trust, a Health and Social Services Board, the Care Quality Commission, the Health Protection Agency, Monitor, the Wales Centre for Health, the Common Services Agency for the Scottish Health Service, Healthcare Improvement Scotland, the Scottish Dental Practice Board, the Northern Ireland Central Services Agency for Health and Social Services, a Regional Health and Social Care Board, the Regional Agency for Public Health and Wellbeing, the Regional Business Services Organisation, Health and Social Care trusts, Special Health and Social Care Agencies, the Patient and Client Council, and the Health and Social Care Regulation and Quality Improvement Authority;
- A healthcare professional who has been subject to an investigation or proceedings, by any regulatory body, in connection with the persons fitness to practice of any alleged fraud, the final outcome of which was suspension or erasure from the register (where this still stands), or a decision by the regulatory body which had the effect of preventing the person from practicing the profession in question or imposing conditions, where these have not been superseded or lifted;
- A person disqualified from being a company director; or
- A person who has been removed from the office of charity trustee or removed or suspended from the control or management of a charity, on the grounds of misconduct or mismanagement.

Annex 2 – new appointment pro forma

Current AO details

Name	
Start date	
Finish date	
Permanent/ Interim	
Reason for leaving	

New AO appointee details

Name	
Email Address	
Start date	
Permanent / Interim (If interim please state period covered)	
Appointee background / experience including current position held and organisation or include candidate CV	
Name of CCG appointment will be held jointly with (where more than one CCG applies)	

CCG details

CCG name	
CCG address	
Name of CCG chair	
Email address of CCG chair	
Current assessment rating	
Is the CCG currently in special measures or under legal directions	

Recruitment process

Date of interview	
Interview panel (names/job titles)	
Number of candidates interviewed	
Details and date of development centre / process undertaken or scheduled	

Local Governance arrangements

Current CCG Clinical leader (delete as appropriate)	<i>AO / Chair</i>
CCG Clinical leader once AO appointee in post (delete as appropriate)	<i>AO / Chair</i>
SMT arrangements in place to support interim AO appointee (where applicable)	
Other supporting comments	

Process steps

Below is a checklist of the steps that were set out in the policy guidance. The DCO is expected to exercise their judgement as to whether all of the steps were required in each individual circumstance. Please use the text box below to give the rationale for any steps that were omitted:

Please use this box to explain any 'no' selections below:

CCG is assured that candidate meets all the requirements of the role and is a fit and proper person	YES/NO
Candidate is eligible for the role and does not meet any of the criteria that would disqualify them from membership of a CCG governing body under the Regulations- i.e. is not an MP or MEP; or member of a local authority; or as an individual, or a partner, member or employee of an organisation, provides the CCG with a service or facility to support it in discharging its commissioning functions (this	YES/NO

OFFICIAL

could be a CSU or NHS England)	
CCG can demonstrate that it has followed a fair and proper recruitment procedure which complies with relevant legislation	YES/NO
Appointment has taken account of the Professional Standards Authority standards for members of NHS boards and CCG governing bodies in England	YES/NO
CCG considered seeking appropriate support (recruitment agency, CSU etc.) where relevant	YES/NO
Candidates underwent appropriate and robust individual development and assessment centre – the purpose of this requirement is to ensure that every CCG AO has an individual senior leadership development plan in place, and that the CCG is committed to supporting the ongoing personal development of the new AO as a commissioning leader	YES/NO
All relevant stakeholders were engaged in the selection process	YES/NO
External assessors from NHS England were considered for involvement in the selection process	YES/NO
CCG has notified the relevant DCO in writing of the nomination for the new AO	YES/NO
CCG has provided the DCO with details of the recruitment process and what steps it has taken to assure itself of the AO designates fitness for the role	YES/NO
CCG compliant with CCG off payroll and agency spend guidance	YES/NO
DCO team and/or Regional Director recommends that the AO is appointed	YES/NO

The following people should normally have agreed this appointment:

Locality Director
DCO team/DAD
Regional Director.

The central team will then submit to the Chief Executive for final sign off. Please submit to england.ccqiaf@nhs.net

Annex 3 – table of roles and responsibilities for appointing an AO

<p>CCG</p>	<ul style="list-style-type: none"> • CCG recruits AO, following proper recruitment procedure consistent with guidance • CCG ensures AO is a fit and proper person • CCG nominates AO to NHS England in writing to DCO and sets out the procedure that has been followed along with the new appointment pro forma and any other relevant information they may wish to include
<p>DCO and Team</p>	<ul style="list-style-type: none"> • DCO assesses the procedure that the CCG has followed to ensure the AO designate is appropriate and a fit and proper person • DCO informs the Regional Director of the nomination and outcome of DCO's assessment of the procedure
<p>Regional Director and Team</p>	<ul style="list-style-type: none"> • Regional Director reviews recommendation from the CCG and DCO on behalf of NHS England's National Director: Operations and Information • Regional team submits the new appointment pro forma and supporting documents to the central CCG assessment team
<p>Central CCG Assessment Team</p>	<ul style="list-style-type: none"> • Check that all steps of the process have been followed • Submit request for AO appointment to Chief Executive copying in the National Director: Operations and Information
<p>Office of the Chief Executive</p>	<ul style="list-style-type: none"> • The Chief Executive of NHS England, as the Accounting Officer, formally appoints the AO of the CCG by writing to the chair and new AO of the CCG, copying in the central CCG assessment team, and relevant regional leads