

# Guidance on pay for very senior managers in NHS trusts and foundation trusts

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We support providers to give patients safe, high quality, compassionate care within local health systems that are financially sustainable.

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### **Published separately**

Annex A: 'Established' pay ranges in acute NHS trusts and foundation trusts

Annex B: Application for approval (for NHS trusts) or opinions (for NHS foundation trusts) of new or uplifted salaries/remuneration at or above £150,000 pa

Annex C: Off-payroll engagement template

## Purpose of this guidance

1. Ahead of publication of the very senior manager (VSM) national pay framework by the Department of Health and Social Care (DHSC), this brief guide provides advice to NHS trusts seeking executive VSM salary approval and NHS foundation trusts seeking VSM salary opinion. It does not cover chair and non-executive director pay.

## Guidance on managing very senior pay in all providers

2. All providers<sup>1</sup> should refer to the national VSM pay framework once it is published by DHSC.
3. In the interim the VSM pay review process requires:
  - NHS trusts to seek approval via [nhsi.vsmcases@nhs.net](mailto:nhsi.vsmcases@nhs.net) from NHS Improvement, DHSC, the Minister of State for Health and Her Majesty's Treasury (HMT) before confirming VSM salaries at appointment or any individual/group VSM pay increase (outside any nationally recommended cost of living increase).
  - NHS foundation trusts to seek the opinion via [nhsi.vsmcases@nhs.net](mailto:nhsi.vsmcases@nhs.net) of NHS Improvement, DHSC and the Minister of State for Health before confirming VSM salaries at appointment or any individual/group VSM pay increase (outside of any nationally recommended cost of living increase).
4. This process covers:
  - all on-payroll appointments (substantive and fixed term) for VSM roles in NHS ambulance and community trusts (note reference should still be made to the *Pay framework for very senior managers in strategic and special health authorities, primary care trusts and ambulance trusts* for these cases)<sup>2</sup> until this is replaced by the new pay framework
  - on-payroll VSM appointments (substantive and fixed term) in all other NHS trusts and in all NHS foundation trusts where the annual salary is £150,000 or above (irrespective of whether the new salary is an increase or not)

<sup>1</sup> In this guidance 'providers' refers to both NHS trusts and NHS foundation trusts.

<sup>2</sup>

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/211964/Pay\\_Framework.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211964/Pay_Framework.pdf)

- acting-up arrangements, promotions/pay rises for individuals already in post and earning £150,000 or above, and NHS secondments and conversion of off-payroll interims into on-payroll arrangements
  - directors who by virtue of their qualifications and the requirements of the post are eligible to be on the standard NHS consultant contract. In such cases NHS trusts should seek approval and NHS foundation trusts should seek opinion on any discretionary payments proposed as part of a chief executive/director's salary, where the total salary is or exceeds £150,000 pa. NHS Improvement should be advised of the total salary and its make-up
  - chief executives or executive directors who plan to resign and take their pension benefits when they reach pensionable age, and then return to work. In these cases NHS trusts are required to contact NHS Improvement before any resignation, and to seek approval from NHS Improvement before re-appointment is authorised by the trust. For such cases at both NHS trusts and foundation trusts, we expect the total post-retirement salary plus pension not to exceed the pre-retirement salary total, and that the necessary salary approvals (for NHS trusts) and opinions (for NHS foundation trusts) are sought.
5. For the purposes of deciding whether the pay level for a particular appointment meets the threshold, pay should include all elements of salary, fees and allowances, plus the cost to the employer of any fringe benefits and pensions in excess of normal levels. It does not include the normal reimbursement of expenses incurred in the course of official duties available to all staff. If the amount payable under a performance-related pay arrangement exceeds £17,500, the excess should be added to the other elements of pay to assess whether the pay level for the appointment is £150,000 or above.
  6. Approval should be sought for part-time appointments at salaries of £150,000 or above pro rata. The only exception to this requirement for ministerial approval is where an individual in an NHS ambulance trust or NHS community trust is eligible for a spot rate of over £150,000, provided only the spot salary is paid and there are no enhancements, eg recruitment and retention premia (RRP) and additional responsibility payment (ARP).

7. Where providers intend to recruit VSMs on salaries of £150,000 or above, wish to increase the pay of current VSMs to £150,000 or above, or wish to increase the salary of current VSMs already paid £150,000 or above they should:
- Refer to the pay ranges in [Annex A](#). (If there is no comparator role, please seek advice from NHS Improvement at [nhsi.vsmcases@nhs.net](mailto:nhsi.vsmcases@nhs.net).) In proposing executive remuneration levels, providers should take account of the government policy of senior pay restraint as communicated in the [letter of 2 June 2015 from the Secretary of State to provider chairs](#). Ministers expect:
    - pay will not exceed the median without a strong and exceptional case
    - any pay increases on appointment should be limited to a maximum of 10% unless this is insufficient to raise the pay level to the lower quartile point of the relevant range
    - an element of earn-back pay will be included, ie a requirement to meet agreed performance objectives to earn back an element of base pay (normally at least 10%) placed at risk
  - Complete the template at [Annex B](#) in discussion with NHS Improvement regional colleagues and/or the NHS Improvement trust resourcing team.
  - Email the case to the NHS Improvement trust resourcing team at [nhsi.vsmcases@nhs.net](mailto:nhsi.vsmcases@nhs.net). Once the team has reviewed the case and is content to recommend it, it will forward the case to the NHS Improvement provider leadership committee for approval (NHS trusts)/opinion (NHS foundation trusts) before submission to DH, and for NHS trusts also to the Chief Secretary to the Treasury. If the trust resourcing team is not content with the case, it will advise the provider of the reasons why and the next steps.
8. All providers are strongly advised to start the VSM pay process described in paragraph 2 at the start of the recruitment process – to manage expectations at the outset, agree acceptable pay ranges/conditions in advance of appointment and minimise any delays while views/approvals are sought after appointment. NHS trusts should note that the Chief Secretary to the Treasury’s approval is normally required before appointments are confirmed; failure to obtain this approval may be regarded as a breach of process with an associated significant fine.

9. The level of pay on appointment and any pay changes for current VSM staff should not be confirmed to staff until the necessary approvals or opinions have been given.

## Off-payroll engagements

10. Board office holders – HMRC has confirmed that all appointments to posts defined as ‘office holders’ should be on payroll regardless of the expected duration of the appointment. This includes virtually all VSMs and only a very limited exception is available. We have previously published [Guidance for the use of off-payroll interims](#).<sup>3</sup>
11. Where exceptionally interim VSMs are engaged off payroll, including occasions where the office holder is still in post but temporarily unable to perform their duties, eg owing to illness, providers must comply with the HMT guidance referenced in [Guidance for the use of off-payroll interims](#). NHS trusts and foundation trusts are expected to appoint on payroll. Where exceptionally they propose to appoint a VSM on off-payroll terms, NHS Improvement should be consulted:
  - For directly engaged interim office holder appointments, please complete [Annex C](#) and send to Mark Bailey ([mark.bailey15@nhs.net](mailto:mark.bailey15@nhs.net)).
  - For engagements via an agency refer to the interim agency very senior manager approval process and the HM Treasury guidelines referenced in [Guidance for the use of off-payroll interims](#) and [Interim agency very senior manager approval process](#).<sup>4</sup>
12. Please note the government changes regarding IR35 compliance planned for April 2017 will change how the current intermediaries legislation (known as IR35) is applied to off-payroll working in the public sector. Where the rules apply, people who work in the public sector through an intermediary will pay employment taxes in a similar way to employees.<sup>5</sup>

<sup>3</sup> [https://improvement.nhs.uk/uploads/documents/Off-payroll\\_guidance\\_-\\_ed\\_V2.0\\_final\\_3\\_1.pdf](https://improvement.nhs.uk/uploads/documents/Off-payroll_guidance_-_ed_V2.0_final_3_1.pdf)

<sup>4</sup> [https://improvement.nhs.uk/uploads/documents/interim\\_agency\\_VSM\\_approval\\_process.pdf](https://improvement.nhs.uk/uploads/documents/interim_agency_VSM_approval_process.pdf)

<sup>5</sup> <https://www.gov.uk/guidance/off-payroll-working-in-the-public-sector-reform-of-intermediaries-legislation>

## Interim consultant engagements

13. Providers should review if any engagements are more properly reviewed as consultancy under the consultancy spending approval criteria.

## Contact details for further advice and submission of cases

14. Advice is available from the NHS Improvement trust resourcing team. Please email [nhsi.vsmcases@nhs.net](mailto:nhsi.vsmcases@nhs.net) and a member of the team will contact you within one working day. Cases should be sent to the same email address.



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