

Guidance on senior appointments in NHS trusts

March 2017

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Introduction

1. NHS Improvement has a “key advisory role in ensuring the integrity, rigour and fairness of appointments” to all chief executive and director posts in NHS trusts in accordance with the letter from David Nicholson, then Chief Executive of the NHS, titled ‘Appointment to the Most Senior Posts in NHS Trust and PCTs’ dated 18 October 2006 (Gateway No:7246) (see Annex 1). The NHS Trust Development Authority (TDA) performed this role from 1 April 2013 and NHS Improvement has performed it since 1 April 2016.
2. This guidance updates and replaces any earlier guidance issued by strategic health authorities and TDA.
3. This guidance applies only to NHS trusts. It does not apply to foundation trusts, which should continue to be guided by the Foundation Trust Code of Governance.

Role of NHS Improvement in the selection process

4. The following process should be followed for all permanent appointments and fixed-term appointments of three months or longer whether on, or very exceptionally, off-payroll. This includes appointments where two or more trusts are combining executive teams, where at least one of these trusts is an NHS trust. NHS Trusts are asked to either make contact directly with the relevant NHS Improvement executive regional managing director or relevant NHS Improvement executive function director (eg nursing, finance, medical), or make contact initially through the NHS Improvement Trust Resourcing Team (see paragraph 8).
 - a. Chairs should discuss plans to recruit chief executives with the relevant NHS Improvement executive regional managing director (or in their absence, with the relevant director of improvement and development). Similarly, chief executives in NHS trusts may wish to discuss plans to recruit to director posts with the relevant director in NHS Improvement. Discussions should be held before recruitment begins and should include the nature of the role, the leadership challenge, the overall approach to recruitment, salary, timetable and identification of the external assessors as set out in 4b-e below.
 - b. Details of the interview selection process and selection panel (specifying the external assessors) should be agreed with NHS Improvement along with the date of

interviews. This should be done **before** the recruitment process starts so that NHS Improvement can properly play its role and interview panels can be held when an external assessor from NHS Improvement is available. The selection panel should be made up in accordance with David Nicholson's letter of 18 October 2006 (Annex 1) with at least one external assessor from NHS Improvement and any second assessor nominated by the NHS trust in consultation with NHS Improvement. NHS Improvement will advise the NHS trust of the name and contact details of the NHS Improvement external assessor usually via nhsi.vsmcases@nhs.net. If there is a proposed second external assessor as part of the panel the NHS trust should agree the nomination with the NHS Improvement external assessor.

- c. The NHS Improvement external assessor may wish to review and comment on the advertisement, job description and person specification before the advertisement is placed. If so, they will advise the NHS trust accordingly.
- d. NHS trust remuneration committees should get NHS Improvement's approval for the salary range before advertising and should include the salary range in the advertisement (usually the lower quartile to the median of the relevant range). NHS Improvement will seek Minister of State for Health and Chief Secretary to the Treasury views/approval as appropriate while the recruitment process is underway to minimise delays when the trust is ready to make an offer. [NHS Improvement guidance on pay for very senior managers in providers](#) includes more detail about this process, salary ranges for key roles in different types of trusts and the template for seeking pay approvals.
- e. The NHS trust should agree with the NHS Improvement external assessor whether they prefer to be directly involved in the shortlisting or excluded from the shortlisting and only involved in the subsequent selection process.
- f. At interview, in accordance with the letter of 18 October 2006 from David Nicholson, NHS trusts "have a right to appoint the candidate of their choice, but they are expected not to appoint a candidate placed below the line by both external assessors". The role of the external assessors is therefore to give their opinion on which candidates are appointable. If there is a difference of opinion between the two assessors, the view of the NHS Improvement assessor will take priority and no candidate assessed below the line by the NHS Improvement assessor should be appointed. NHS trust panel members at their discretion may then invite further comment from external assessors on rank order of candidates.
- g. At the end of the process the NHS trust should advise the NHS Improvement Trust Resourcing Team via <mailto:nhsi.vsmcases@nhs.net> of the outcome, using the template in Annex 2.

The appointment decision

5. The NHS trust remains legally responsible for the appointment of executive directors in accordance with paragraph 3 of the National Health Service Trusts (Membership and Procedure) Regulations 1990 S.I. 1990/2024 (as amended). NHS Improvement will not have a role in deciding which candidate should be appointed beyond that set out in paragraph 4f above.

Off-payroll appointments

6. HMRC has confirmed that all appointments to posts defined as 'office holders' should be on payroll regardless of the expected duration of the appointment and subject only to very limited exception. Please refer to the [NHS Improvement guidance on pay for very senior managers in providers](#) for further information on this. Note that external assessors from NHS Improvement expect to sit on selection panels for all senior posts (see paragraph 4b) irrespective of whether the appointment is made on, or very exceptionally, off payroll.

Re-appointment after taking pension benefits

7. If a chief executive or executive director is planning to resign and take their pension benefits when they reach pensionable age and then return to work, the NHS trust should contact NHS Improvement before any resignation, and seek approval from NHS Improvement before authorising re-appointment. It is expected in such cases that the total of the post-retirement salary plus pension will not exceed the pre-retirement salary total and the necessary salary approvals will be required (please refer to the [NHS Improvement guidance on pay for very senior managers in providers](#)).

Contact for further advice and submission of cases

8. The NHS Improvement Trust Resourcing Team can advise on any aspect of this guidance. Please email <mailto:nhsi.vsmcases@nhs.net> and a member of the team will contact you within one working day. Submit cases to the same email address.

Annex 1 : Letter from David Nicholson, 18 October 2006

From the Office of David Nicholson CBE
NHS Chief Executive



Richmond House
79 Whitehall
London
SW1A 2NS
Tel: 020 7210 5142
Fax: 020 7210 5409
David.nicholson@dh.gsi.gov.uk

18 October 2006

To: All Chairs of NHS Trusts in England
All Chairs of Primary Trusts in England

Copy: All Chief Executives of Strategic Health Authorities in England
All Chief Executives of NHS Trusts in England
All Chief Executives of Primary Care Trusts in England
All Workforce Leads for Strategic Health Authorities in England

Gateway No: 7246

Dear Colleague

APPOINTMENTS TO THE MOST SENIOR POSTS IN NHS TRUSTS AND PRIMARY CARE TRUSTS

I am aware that a number of Chairs are newly appointed, and may not be familiar with the arrangements for the general appointment of Chief Executive Officers, Executive Board Directors and other senior posts in NHS Trusts and Primary Care Trusts.

Procedures under CPLNHS were inevitably constrained as a consequence of the condensed timetable, the need to minimise disturbance to NHS service delivery during reorganisation and to treat existing senior staff fairly. This meant that some exceptional procedures needed to be followed. However, I am now writing to reiterate the existing guidelines, which I expect Chairs to follow for the future in order to ensure that the very best candidates are appointed and that the system is robust, fair and consistent across the Service. I also expect that Chairs would consult and involve their SHA CE at all stages of the recruitment, selection and appointment process. This should include an early discussion on the nature of the role and the leadership challenge to be met; the overall approach to recruitment.

Scope of this Guidance

This letter restates guidelines on the appointments process for senior appointments in NHS Trusts and Primary Care Trusts. It does not apply to Foundation Trusts who are required to follow Monitor's Code of Governance, published September 2006.

In addition, these arrangements are not intended to supersede current arrangements on the composition of medical appointments committees. Local arrangements for the appointment of Medical Directors and other senior appointments must, however, ensure the integrity, rigour and fairness of the process.

Importance of External Assessors

External assessors have a particularly important role to play in senior appointments. They bring to the process a wider context and perspective which adds objectivity to the process. Strategic Health Authority Chief Executives have a key advisory role in ensuring the integrity, rigour and fairness of appointments for Chief Executive posts in NHS Trusts and Primary Care Trusts. As a matter of good practice, the selection process for the appointment of Chief Executives, Executive Directors of Boards and other similar posts in NHS Trusts and Primary Care Trusts should always include the following:

- the appointment of at least one, and desirably two external assessors;
- one of the assessors should be nominated by the Strategic Health Authority, and for Chief Executive appointments the Strategic Health Authority Chief Executive will normally be an assessor; for Directors of Finance, the Strategic Health Authority Finance Director; for Directors of Nursing, the Strategic Health Authority Nursing Director, and so on;
- the second assessor should be a person of standing and experience in the appropriate field and should be selected by the NHS Trust or Primary Care Trust in consultation with the Strategic Health Authority;
- if there is no-one in the Strategic Health Authority with the appropriate professional background, both assessors should be appointed by the NHS Trust or Primary Care Trust, taking advice from the Strategic Health Authority Chief Executive;
- both assessors should be involved throughout the selection process as agreed between the NHS or Primary Care Trust and the Strategic Health Authority on a case-by-case basis;
- NHS Trusts and Primary Care Trusts have the right to appoint the candidate of their choice, but they are expected not to appoint a candidate placed below the line by both external assessors.
- when making a final selection between candidates above the line, NHS Trusts and Primary Care Trusts will wish to give due weight to the external assessors' assessments of the merits of the candidates. The view of Strategic Health Authority Chief Executive, or their representative will be particularly important.

Further Guidance

If you have any queries on these guidelines, please contact Debbie Mellor, Acting Director of Workforce Capacity at the Department of Health (Room 2W32, Quarry House, Quarry Hill, Leeds LS2 7UE. Telephone 0113 254 6126.)

Yours sincerely



David Nicholson
NHS Chief Executive

Annex 2: Template to confirm outcome of selection process

Name of successful candidate	
Confirmation that the Trust Remuneration Committee or chief executive is satisfied that the selection process was compliant with this guidance. If not, please explain reasons	
Have the necessary salary approvals been given for any salaries at or over £142,500 from NHS Improvement, the Minister of State for Health and the Chief Secretary to the Treasury.	
Confirmation that the trust has ensured that the individual is fit and proper to carry out the role in accordance with the Care Quality Commission fit and proper person regulation 5 .	
Start date of new appointee	

Signed: _____ (HR director/Chief executive)

Date: _____

Please return this form to NHS Improvement via nhsi.vsmcases@nhs.net as soon as possible after the end of the selection process.

Contact us:

NHS Improvement

Wellington House
133-155 Waterloo Road
London
SE1 8UG

0300 123 2257

enquiries@improvement.nhs.uk
improvement.nhs.uk



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