

*From the Office of David Nicholson CBE
Chief Executive of the NHS in England*



Letter to Chairs and Chief Executives of Strategic
Health Authorities in England

cc: Directors of Workforce in Strategic Health Authorities
in England

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Dear Colleague

Process for Making Severance Payments to Senior Managers

I enclose a copy of a letter which I have sent today to the Chairs and Chief Executives of Acute NHS Trusts, Ambulance Service NHS Trusts, Mental Health NHS Trusts and Primary Care Trusts (PCTs) in England. The purpose of this letter is to clarify the process to be followed when a trust or PCT wishes to terminate the contracts of employment of its Chief Executive and/or Directors*.

The letter highlights the very significant and crucial role which SHAs play in protecting the reputation of the NHS and ensuring the best use of public funds in these cases.

Such cases are thankfully rare, but they are also often complex and personally difficult for all concerned. Your guidance and support to trusts and PCTs in these situations is therefore invaluable.

SHA remuneration committees play a crucial role here and, therefore, I would be grateful if you would ensure that they are properly briefed and able to access professional, legal and audit advice as they require it.

As a general rule, the SHA should expect to see evidence that the Trust or PCT has:

- Obtained the advice of its auditors
- Taken legal advice
- Demonstrated that any payment represents good value for money and is in the public interest
- Evidenced why local disciplinary or capability procedures are not the appropriate vehicles for resolving the situation, if the case is a conduct or performance issue

Under these arrangements, SHA remuneration committees are required to approve any termination payments which trusts or PCTs are proposing to make to a Chief Executive or Director. This may require remuneration committees to review their terms of reference.

Termination payments include contractual payments, such as redundancy or early retirement provisions, as well as the 'novel or unusual payments' covered by the HMT Treasury guidance, 'Managing Public Money'. As set out in the guidance, extra-contractual payments on termination should be exceptional and made only where a payment is in the public interest and represent value for money. I would expect that you would wish to consider any proposal being submitted by a trust or a PCT to HM Treasury prior to the submission.

Where compromise agreements are being proposed, you will wish to acquaint yourself with the terms of these documents, particularly but not exclusively, clauses relating to the agreement of standard references and those relating to future employment in the NHS.

Similarly, proposals for severance packages for SHA Chief Executives and Directors should be submitted to DH.

You will also want to be aware that the Secretary of State is proposing to issue directions to standardise notice periods to not more than 6 months for Chief Executives and Directors, as soon as possible. These would apply to all new contracts with immediate effect. The directions would not prevent you from offering employees notice periods of less than 6 months where you consider this appropriate, nor should you change notice periods if they are currently less than 6 months.

I know you will appreciate the vital role you have to play in ensuring consistency, equity, probity, and in taking a system-wide view of the implications of these cases. Thank you for your support.

If further information is required please contact Clare Chapman, Director General of Workforce on 020 7210 5204 or clare.chapman@dh.gsi.gov.uk

Kind regards

A handwritten signature in black ink, appearing to read 'D Nicholson', with a long horizontal flourish extending to the right.

David Nicholson CBE
NHS Chief Executive

* For the purposes of this letter, "Director" means any Director reporting to the Chief Executive, whether or not an executive member of the board