

Letter to Chairs and Chief Executives of Primary Care  
Trusts, Acute NHS Trusts, Ambulance Service NHS  
Trusts and Mental Health NHS Trusts in England

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cc Directors of Human Resources of Primary Care  
Trusts, Acute NHS Trusts, Ambulance Service NHS  
Trusts & Mental Health NHS Trusts in England

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Dear Colleague

### **Process for Making Severance Payments to Senior Managers**

The purpose of this letter is to clarify the process to be followed when a NHS trust or Primary Care Trust (PCT) wishes to terminate the contracts of employment of its Chief Executive and/or Directors\*.

The need for a trust or PCT to terminate the contract of a senior executive will be very rare. At the same time, the issues associated with terminating contracts of employment can be very complex. Therefore, chairs and their remuneration committees in this position should seek guidance and support from their Strategic Health Authority (SHA) as soon as it becomes apparent that termination of contract is being considered.

Ultimately, of course, the termination arrangements will be a matter of consideration for you as the employer of the executive concerned. However, the expertise and support of the SHA should be sought at all stages to support your remuneration committee and your board in making decisions which will protect public confidence in the NHS and, where payments are being considered, represent the best use of public funds.

For these reasons, where termination payments are being considered by your own remuneration committee or board, these should also be approved by the remuneration committee of the SHA.

For these purposes, a termination payment is any payment made on the termination of employment that is greater than salary due and any unpaid annual leave at the point of termination. Executives who choose to retire and access their NHS pensions, without the requirement for the employer to enhance the pension in any way, are excluded from these arrangements.

Termination payment also means any severance payment, whether or not

covered by a compromise agreement, pay in lieu of notice, garden leave, pension enhancements or redundancy payment.

In summary, if you are considering terminating the contract of a Chief Executive or Director, you should:

- Inform your SHA Chief Executive at the earliest opportunity
- Take advice from the SHA on governance processes to be followed
- Seek the approval of the SHA's remuneration committee where you are proposing to make a termination payment, including statutory and contractual payments

Please note that where 'novel or unusual payments' are proposed, approval is also required from HM Treasury. Further details can be found in 'Managing Public Money', issued by HM Treasury. However, you should not approach HM Treasury before informing your SHA and seeking approval from the SHA remuneration committee. 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.

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 hope this serves to clarify some points of process and provides some support for handling what I know can be difficult situations. If you have any queries about the content of this letter, please direct them to your SHA Chief Executive.

Kind regards

A handwritten signature in black ink, appearing to read 'D Nicholson', written in a cursive style.

**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.