

Clinical Leadership and Governing Body Remuneration Framework

Approved by the Governing Body 18 June 2020

In respect of the following Governing Body Roles:

- GP Members on the Governing Body (including the Clinical Chair of the CCG)
- Lay Members
- Secondary Care Doctor on the Governing Body
- Registered Nurse on the Governing Body

And the following other CCG roles:

- Clinical Leads
- Associate Clinical Directors
- Executive Clinical Director

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1. Introduction

NHS Cheshire Clinical Commissioning Group (the CCG) is committed to ensuring a fair and transparent approach to remuneration is adopted for Governing Body members and other supporting clinical engagement roles. In addition, the CCG, as an NHS organisation and a public body, is covered by the HM Treasury 'Managing Public Money' handbook and has a statutory requirement to exercise its functions effectively, efficiently and economically.

This framework outlines the CCG's responsibilities and its approach to fulfilling them and is based on best human resources practice, internal audit discussions and is reflective of national arrangements for the NHS pension scheme, associated employment law and HMRC guidance.

The framework provides information for on the following areas:

- National guidance
- HMRC compliance
- Remuneration principles

2. Policy statement

The CCG's policies and guidance set out the organisation's standards and intentions, and are written with the aim of being as clear and comprehensive as possible. However, the CCG operates in a dynamic and evolving work environment and attention should be paid to the spirit of the guidance as well as the letter. Policies or guidance documents by themselves cannot guarantee effective behaviour or the delivery of key objectives.

Whilst they are designed to support the CCG, and the people working within it, our success depends on continuous, high quality effort by everyone the policy covers. Therefore, consideration must be given to good practice when applying or interpreting any of the CCG's policies, and you should read any guidance or supporting documentation that relates to this document to help you do this.

3. Purpose and scope

The aim of this framework is to set out a clear, fair and transparent approach to the remuneration of non-VSM Governing Body Members and other supporting clinical engagement roles.

This Framework will be effective for the CCG from the date on which it is formally approved by the Governing Body.

For the avoidance of doubt, this policy is not applicable to employees on a Very Senior Manager (VSM) contract or those who are covered by the national terms and conditions of service (such as Agenda for Change) other than for those contractual terms explicitly agreed by the Remuneration Committee, these staff are out of scope of this remuneration framework.

4. Roles and responsibilities

4.1 Managers

Those responsible for or involved in the appointment of any staff outlined in this framework must familiarise themselves with the contents of this framework and raise any questions or queries regarding its application to the human resources department prior to taking steps to recruit to these roles and enacting any decisions.

4.2 Individuals

All individuals are responsible for providing all necessary information to the CCG as and when required to enable the CCG to make appropriate adjustments and ensure compliance with its obligations.

Individual GPs are responsible for providing all necessary information to the CCG on Tiered global earnings and Additional Voluntary Contributions (AVCs) as and when required to enable the CCG to calculate the correct pensionable pay and contributions and to comply with all requirements linked to the preparation of the annual report and accounts.

4.3 Human Resources

The human resources team will be responsible for providing additional guidance, advice and support to managers in the application and operation of this framework.

4.4 Finance

The CCG finance team are responsible for monitoring payments made in line with guidance and budgeted amounts. The team also prepare the GP SOLO form at the end of the year for GP's to approve and work with other agencies (NHS England, Primary Care Support Services England, Capita, Payroll provider) to ensure the correct amount has been applied. The CCG finance team also prepare the remuneration report and 'off-payroll' engagement information for Annual Report and Accounts requirements

4.5 Governing Body

In line with the CCG constitution, the Governing Body is responsible for determining the remuneration, fees and other allowances payable to employees or other persons providing services to the CCG and the allowances payable under any pension scheme it may establish under paragraph 11(4) of Schedule 1A of the 2006 Act, inserted by Schedule 2 of the 2012 Act.

4.6 Remuneration Committee

The Remuneration Committee is a statutory committee of the CCG that is accountable to the Governing Body for making recommendations on determinations about the remuneration, fees and other allowances for:

- Very Senior Management (VSM) employees;
- Governing Body Members;
- Clinical leads and other supporting clinical engagement roles;
- for people who provide services to the CCG; and
- allowances under any pension scheme that the CCG may establish as an alternative to the NHS pension scheme.

The CCG's Remuneration Committee is responsible for ensuring the CCG adheres to this supporting framework and that any decisions that are understood to be outside this approved framework are reviewed, considered and recommended for approval by the Governing Body prior to any decisions being made.

5. Guidance

5.1 National Guidance

In line with the Health and Social Care Act each CCG may appoint persons to be employees or work on a contract for service basis as it considers appropriate and is able to:

- Pay its employees remuneration and travelling or other allowances in accordance with determinations made by its Governing Body; and
- Employ them on such terms and conditions as it may determine.

NHS England provided initial guidance document¹ to CCGs in respect of remuneration ranges and amounts for Accountable Officers and Chief Finance Officers.

No further specific guidance or mandate has been published since the development of this guidance which outlines specific remuneration arrangements or approaches for any other Governing Body role of Clinical Leads engaged by a CCG, however, an additional guidance document² from NHS England does outline some principles for reimbursement and remuneration for clinical Governing Body members that CCGs may wish to take into account.

5.2 Senior Remuneration

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 £150,000 per annum under requirements promulgated from time to time, CCGs will now require formal consent from NHS England and Ministerial approval before the role can be advertised. NHS England/Improvement have confirmed that this approval is not required for roles exceeding £150k where the post holder is a GP. If the appointment does not exceed £150,000 per annum then no further approvals are required and the CCG Remuneration Committee can determine the remuneration in accordance with existing guidance.

For the avoidance of doubt, all individuals who are paid under different terms such as based upon a sessional rate, or notional rate do not have a whole time equivalent value, therefore in relation to this framework it is not anticipated that any of the 'roles' will exceed this threshold but will be kept under review in line with remuneration guidance.

5.3 HMRC guidance and compliance

CCGs are expected to ensure that HMRC are content with any arrangements put in place and that all payments are made in accordance with tax and national insurance regulations and with any guidance or advice issued by the NHS England.

¹ Clinical Commissioning Groups: Remuneration guidance for Chief Officers (where the senior manager also undertakes the accountable offer role) and Chief Finance Officers

² Clinical commissioning group governing body members: Role outlines, attributes and skills (October 2012)

6. Types of engagement

6.1 Off Payroll Workers

Particular consideration should be given to the impact of the IR35 legislation in respect of any off-payroll workers (OPW) engaged by the CCG in ensuring that appropriate tax and national insurance deductions are made in line with these regulations. Whilst the IR35 legislation is not new, since 2017 the onus of deducting tax and national insurance deductions on behalf of an OPW who's engagement falls within the rules set out within IR35 now rests with the public-sector body engaging the individual.

The approaches to remuneration outlined in this framework have been developed in accordance with current HMRC guidance and tax legislation, however, recognising the complexities associated with this area the CCG may need to take further independent and expert advice as required to ensure continued compliance with HMRC requirements.

Guidance can be found at:

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

The CCG has a 'IR35' policy and procedure in place in order to manage its OPW obligations and this has been reflected as appropriate within this framework.

6.2 Office Holder

The general definition of an office-holder is that

- they are neither a 'employee' (a worker under a contract of employment) or perform specified activities through a contract for services.

Examples of office-holders usually include, non-executive directors, company secretaries, board members of statutory bodies or trustees of an organisation

- As an 'office holder' these arrangements therefore result in no 'contract of' service or 'contract for' service between the post holder and the CCG but will require the CCG to establish an office holder 'agreement' to clarify working arrangements.
- As an 'office holder' is not considered to be an employee of the CCG, they would not normally attract any employment benefits such as, but not limited to, statutory or occupational sick pay, redundancy pay, maternity or adoption pay/leave, paternity pay/leave.
- Appendix Three includes details of the CCG office holder 'agreement' in relation to these areas.
- An office-holder does not usually receive a salary or regular remuneration for their services but are sometimes paid a fee for their services or to cover their expenses. The CCG constitution (regarding GP members) and NHS England guidance (lay members) in this area supports remuneration for CCG Governing Body Members who could be considered normally 'office holders' and such are remunerated based on agreed benchmarked rates.
- 'Office holder' remuneration received is not normally considered to be pensionable, However, in line with guidance³ issued by NHS Pensions, where an office holder is a GP and the GP is a member of the NHS Pension scheme, all earnings are pensionable under

³ Pension Status for CCG Earnings (05/2017) (V5)

the provisions of 'practitioner' pension scheme. This includes any earnings from undertaking the role of a GP on a Governing Body as an 'office holder'.

Office holders will be paid via the CCG payroll.

6.3 Contract 'of' / 'for' Service

A contract 'for' service differs to a contract 'of' service and has a number of distinctions with regards to the CCG's responsibilities

A contract 'of' service can be described as a more typical 'employer' to 'employee' agreement where the employee undertakes work as an integral part of the business.

Key aspects of rights and responsibilities of status under a contract of service are

- The worker is controlled by their employer – they must perform the tasks they are instructed to by a line manager according to their job description
- The worker is expected to work at a specific place during specific hours on specific days (even flexi-time has core hours)
- The worker must present themselves for work and cannot send someone else as a substitute
- Employees have statutory rights to holiday pay, sick pay, maternity and paternity rights and redundancy payments
- Employees have statutory rights regarding how they can be asked to leave their employment

A contract 'for' service applies where a 'contract' established between two parties in a 'buyer / supplier' basis. The creation of a contract for service does not automatically create employment rights, providing the organisation maintains the treatment of the individual engaged via a contract for service in line with the contract.

The key rights, obligations and responsibilities that apply under a contract for services include:

- A requirement to supply services to the buyer according to the contract schedule's specification
- A requirement to complete the project, and any milestones, according to the contract schedule
- A requirement to provide services to the standard required by the client as agreed in the contract
- The right to be paid the rate agreed in the contract, assuming the services have been provided according to the contract's requirements
- The right to provide a substitute to complete the work specified in the contract
- The onus on the individual to 'make good' any work that is not completed to a satisfactory standard at a cost to the individual and not the organisation.

Under a Contract 'for' service arrangement, there is no statutory right to holiday pay, sick pay, maternity and paternity rights and redundancy payments.

7. Fair pay review principles

In addition to reflecting the guidance documents provided by NHS England this framework is based on the following key principles, which are informed by and consistent with the principles set out in the Hutton Fair Pay Review:

- Remuneration should fairly reward each individual's contribution to their organisation's success and should be sufficient to recruit, retain and motivate individuals of sufficient calibre. However, organisations should be mindful of the need to avoid paying more than is necessary in order to ensure value for money in the use of public resources;
- Remuneration must be set through a process that is based on a consistent framework and independent decision-making based on accurate assessments of the weight of roles and individuals' performance in them;
- Remuneration should be determined through a fair and transparent process via bodies that are independent of those whose pay is being set, and who are qualified or experienced in the field of remuneration. No individual should be involved in deciding his or her own pay;
- Remuneration must be based on the principle of equal pay for work of equal value.

8. Approach to remuneration

This section outlines the CCG's approach to the remuneration, the associated terms of engagement and/or terms and conditions of employment for each specific role. A full summary of the agreed approaches can be found at **Appendix 1** reflecting the principles as described above.

8.1 GPs on the CCG Governing Body

8.1.1 Role Outline

As well as sharing responsibility with the other members for all aspects of the CCG governing body business, the individuals acting on behalf of member practices will bring the unique understanding of those member practices to the discussion and decision making of the governing body as their particular contribution.

8.1.2 Specific attributes and competencies

The post-holder must:

- have the confidence of the member practices in the CCG, demonstrating an understanding of all of the member practices, of the issues they face and what is important to them; be competent, confident and willing to give an unbiased strategic clinical view on all aspects of CCG business;
- be highly regarded as a clinical leader, beyond the boundaries of a single practice or profession – demonstrably able to think beyond their own professional viewpoint; have an in-depth understanding of a specific locality(ies) if the CCG has decided to operate in this way;
- be able to take a balanced view of the clinical and management agenda and draw on their specialist skills to add value; and
- be able to contribute a generic view from the perspective of a member practice in the CCG, whilst putting aside specific issues relating to their own practice circumstances.

8.1.3 Remuneration rate

The CCG has agreed a **total sessional cost rate of £320.00**, the rate is

inclusive of:

- Employee National Insurance contributions
- Employee tax contributions
- Employer and Employee Pension contributions.

but **exclusive** of:

- Employer national insurance contribution (which are paid for by the CCG).

Employee contributions for taxation, national insurance and pension requirements will be adjusted at source through normal payroll mechanisms.

8.1.4 Time Commitment

The basis for time commitment is

- 3 days (6 sessions) - 6 days (12 sessions) per month, where a session equals four hours.

Adherence to the time commitment will be reviewed at the post-holder's annual appraisal, if it is believed that there is a potential issue with this.

8.1.5 Contractual status

The CCG has chosen to appoint its GB GP's as '**office holders**'.

The GP Representative's term of office will be for ~~either 2 years or~~ 3 years.

The CCG Constitution states that individuals in this role required to stand for re-election after the initial term of office if the post-holder wishes to be considered by the membership for a further term of office. There is no cap on the number of times an individual can be considered and elected into this post. The notice period for both parties is three months.

8.1.6 Mechanism for payment

In order to ensure that the CCG meets its obligations in respect of HMRC / Pensions requirements and that there are no inconsistencies of approach, the GPs on the CCG Governing Body, as employees, are expected to be **paid via the CCG's payroll provider** with the appropriate tax, national insurance and pension deductions made as applicable at source

8.1.7 Pension (GP SOLO)

In line with guidance⁴ issued by NHS Pensions, where a GP is a member of the NHS Pension scheme, all earnings are pensionable under the provisions of 'practitioner' pension scheme. This includes any earnings from undertaking the role of a GP on a Governing Body as an 'office holder'.

In line with the 'practitioner' pension scheme rules any pension deductions are to be made using the GP SOLO methodology with individual GPs being responsible for providing all necessary required information to the CCG o(for example tiered global earnings and AVCs as and when required) to enable the correct calculation of pensionable pay and required GP SOLO contributions. For 2018/19 rates, please refer to **Appendix 2**.

The CCG is responsible for a number of aspects as per below:

- making the necessary pension contribution payments to the pension's agency on a monthly basis before the 19th of the following month. These payments are currently performed manually following the deductions being made at source.
- responsible for providing GP SOLO forms on an annual basis to GP members who are in the pension scheme, for submission in line with deadlines.

It is the individual's responsibility to inform the CCG of their individual pension arrangements and whether they are a member of the practitioner scheme. The Pensions Agency will not inform the CCG of any changes therefore it is imperative that the GP keeps the CCG up to date with any changes to their personal circumstances.

⁴ Pension Status for CCG Earnings (05/2017) (V5)

8.1.8 Annual Leave, sickness and ‘allowable’ absence

As an office holder rather than an employee, elected GP Governing Body members would not normally receive an annual leave allowance or entitlement to statutory sickness, maternity pay as described above.

Elected GP members shall be expected to comply with the CCG’s normal reporting procedures for scheduled meetings (in order to assess and manage quoracy issues as applicable), and also ensure that the CCG’s Chair is aware of any absences from scheduled meetings etc.

For the avoidance of doubt whilst the CCG may continue to provide remuneration to the individual, providing the necessary time commitment is met, a payment during times of absence does not constitute a payment for annual leave or sickness.

8.1.9 Travel expenses

Expenses should be requested and paid in line with the CCG’s travel expenses policy and payroll timetable (which are based on the agreed NHS ‘agenda for change’ rates in each financial year)

Individuals are not entitled to receive payment for ‘home to office’ expenses.

8.2 Chair of the CCG and Governing Body

8.2.1 Role Outline

As well as sharing responsibility with the other members for all aspects of the CCG governing body business, the Chair of the CCG and Governing Body will have specific responsibility for:

- leading the governing body, ensuring it remains continuously able to discharge its duties and responsibilities as set out in the CCG’s constitution;
- building and developing the CCG’s governing body and its individual members; ensuring that the CCG has proper constitutional and governance arrangements in place;
- ensuring that, through the appropriate support, information and evidence, the governing body is able to discharge its duties;
- supporting the accountable officer in discharging the responsibilities of the organisation;
- contributing to the building of a shared vision of the aims, values and culture of the organisation; and
- leading and influencing clinical and organisational change to enable the CCG to deliver commissioning responsibilities.

The Chair will also have a key role in overseeing governance and particularly ensuring that the governing body and the wider CCG behaves with the utmost transparency and responsiveness at all times. They will ensure that:

- public and patients’ views are heard and their expectations understood and, where appropriate, met;
- that the organisation is able to account to its local patients, stakeholders and the NHS Commissioning Board; and
- the CCG builds and maintains effective relationships, particularly with the individuals involved in overview and scrutiny from the relevant local authority/ies.

8.2.2 Remuneration rate

The CCG has agreed a rate of £90,000 - £105,000 for 2.5 days (0.5 WTE) – 3 days per week (0.6 WTE), with the maximum (£105,000) only potentially being paid if the post-holder worked 3 days per week.

inclusive of:

- Employee pension contributions as applicable.

- Employee National Insurance contributions
- Employee tax contributions

but **exclusive** of:

- Employer pension contributions and employer national insurance contribution

Employee contributions for taxation, national insurance and pension requirements will be adjusted at source through normal payroll mechanisms.

8.2.3 Time Commitment

The basis for time commitment is

- 2.5 days (5 sessions) – 3 days (6 sessions) per week for the Chair (in each of the 52.143 weeks of the financial year).

Adherence to the time commitment will be reviewed at the post-holder's annual appraisal, if it is believed that there is a potential issue with this.

8.2.4 Contractual status

The CCG has chosen to appoint its current Chair as an '**employee**', though the Remuneration Committee has agreed that the Chair could also be engaged as an Office Holder. The primary concern is attracting the best candidate to fulfil the role whilst being able to demonstrate value for money

The CCG's Constitution states that the Chair's term of office is 4 years, and the post-holder is required to stand for re-election after the initial term of office if the post-holder wishes to be considered by the membership for a further term of office. There is no cap on the number of times an individual can be considered and elected into this post. The notice period for both parties is 6 months.

At the end of the Chair's term of office, the post-holder may be entitled to a Resettlement Grant, if the option is outlined in the Chair's contract.

8.2.5 Mechanism for payment

In order to ensure that the CCG meets its obligations in respect of HMRC / Pensions requirements and that there are no inconsistencies of approach, the Chair, as an employee, is expected to be **paid via the CCG's payroll provider** with the appropriate tax, national insurance and pension deductions made as applicable at source.

In order to ensure that the CCG meets its obligations in respect of HMRC / Pensions requirements and that there are no inconsistencies of approach, all elected GPs into CCG positions are expected to be **paid via the CCG's payroll provider** with the appropriate tax, national insurance and pension deductions made as applicable at source

8.2.6 Pension

Pension provision is as per the arrangements for standard employees.

8.2.7 Annual Leave, sickness and 'allowable' absence

Annual leave and sickness provisions are as per the arrangements for standard employees. There is no specific allowable absence other than annual leave and bank holidays.

8.2.8 Travel expenses

Expenses should be requested and paid in line with the CCG's travel expenses policy and payroll timetable (which are based on the agreed NHS 'agenda for change' rates in each financial year)

Individuals are not entitled to receive payment of 'home to office' expenses

8.3 Executive Clinical Director

8.3.1 Role Outline

The Executive Clinical Director provides medical leadership and direction to the Governing Body to ensure that clinical issues are understood and appropriately drives the CCG's strategic and operational plans.

The Executive Clinical Director leads and develops the CCG's clinical effectiveness strategies and systems and works collaboratively with the Executive Director of Quality & Patient Experience to develop the highest standards of clinical practice across commissioned services.

In conjunction with the Executive Directors, the Executive Clinical Director supports the design and development of clinical pathways and services to ensure the best possible outcomes for our patients.

8.3.2 Remuneration Rate

The CCG has agreed a rate of £320 per session, which equates to a total annual rate of £83,413.33 for 0.5 WTE, the rate is

inclusive of:

- Employee pension contributions as applicable.
- Employee national insurance contributions
- Employee tax contributions

but **exclusive** of:

- Employer pension contributions and employer national insurance contribution (which are paid for by the CCG).

Employee contributions for taxation, national insurance and pension requirements will be adjusted at source through normal payroll mechanisms.

8.3.3 Time Commitment

The time commitment agreed for the Executive Clinical Director post is 5 sessions per week, where a session is 4 hrs.

Adherence to the time commitment will be reviewed at the post-holder's annual appraisal, if it is believed that there is a potential issue with this.

8.3.4 Contractual Status

The Executive Clinical Director is classed as an employee, and will have an appropriate contract of employment.

8.3.5 Mechanism for Payment

In order to ensure that the CCG meets its obligations in respect of HMRC / Pensions requirements and that there are no inconsistencies of approach, the Executive Clinical Director, as an employee, is expected to be **paid via the CCG's payroll provider** with the appropriate tax, national insurance and pension deductions made as applicable at source

8.3.6 Pension

Pension provision is as per the arrangements for standard employees.

8.3.7 Annual leave, sickness and 'allowable' absence

Annual leave and sickness provisions are as per the arrangements for standard employees. There is no specific allowable absence other than annual leave and bank holidays.

8.3.8 Travel expenses

Expenses should be requested and paid in line with the CCG's travel expenses policy and payroll timetable (which are based on the agreed NHS 'agenda for change' rates in each financial year)

Individuals are not entitled to receive payment of 'home to office' expenses

8.4 Independent Lay Members on the Governing Body

8.4.1 Role Outline

The role of Lay Member is to bring specific expertise and experience to the work of the Governing Body. Their focus is strategic and impartial, providing an external view of the work of the CCG that is removed from the day-to-day running of the organisation.

The Governing Body has four Independent Lay Governing Body Members. As well as sharing responsibility with the other Governing Body members for all aspects of the CCG Governing Body business, it is desirable that each Independent Lay Governing Body Member will be able to demonstrate sufficient knowledge about the CCG area to enable them to express an informed view about the discharge of the CCG functions.

8.4.2 Remuneration rate

The CCG's constitution determines it is required to have lay members on the Governing Body to support the CCG in obtaining the necessary levels of assurance.

Lay member remuneration will be £320 per day. The rate is **inclusive** of:

- Employee National Insurance contributions
- Employee Tax contributions

but **exclusive** of:

- Employers National Insurance contributions

8.4.3 Time Commitment

The basis for time commitment is between a minimum of 3 and maximum of up to 6 days per month in each financial year.

Adherence to the time commitment will be reviewed at the post-holder's annual appraisal, if it is believed that there is a potential issue with this.

8.4.4 Contractual status

Recognising the statutory nature of these roles the CCG considers that Lay Members serving on the CCG's Governing Body are to be appointed as '**office holders**' thus mirroring the arrangements⁵ for non-executive directors in the NHS who hold a 'statutory' office in line with the Health and Social Care Act (2012).

The Lay Member's term of office will be for 3 years. At the end of this term, the CCG will undergo a recruitment process and the incumbents may apply to be considered for a further 3 year term. There is no cap on the number of time the same individual can be appointed to this position. The notice period for both parties is three months.

8.4.5 Mechanism for payment

In order to ensure that the CCG meets its obligations in respect of HMRC requirements and that there are no inconsistencies of approach, all Lay Members are expected to be **paid via the CCG's payroll provider** with the appropriate tax, national insurance deductions made as applicable at source.

8.4.6 Pension

As an office holder, any earnings under this arrangement are considered to be non-pensionable and therefore individuals are not able to enrol in the NHS Pension (or any alternative pension scheme) for this appointment.

8.4.7 Annual Leave, sickness and 'allowable' leave

As an office holder rather than an employee, Lay Members would not normally receive an annual leave allowance or entitlement to statutory sickness or maternity pay as described above.

Lay Members shall be expected to comply with the CCG's normal reporting procedures for scheduled meetings (in order to assess and manage quoracy issues as applicable), and also ensure that the Chair is aware of any absences from scheduled meetings etc. Absences should be avoided, where possible.

For the avoidance of doubt, whilst the CCG may continue to provide remuneration to the individual providing the necessary time commitment is met, a payment during times of absence does not constitute a payment for annual leave or sickness.

In exceptional circumstances, sickness issues may be considered by the CCG in line with existing policies and procedures.

8.4.8 Travel expenses

Travel expenses incurred by the individual on CCG business are reflective of arrangements for non-executive directors in NHS trusts which mirror the rates set under Agenda for Change and will be amended automatically as and when the rates under Agenda for Change are amended.

⁵ NHS Improvement Terms and Conditions for Trust Chairs and Non-Executive Directors

In addition to the rates outlined in Agenda for Change individuals are entitled to receive payment of 'home to office' expenses. Home to office travelling expenses are wholly taxable. Expenses should be requested and paid in line with the CCG's travel expenses policy and payroll timetable.

8.5 Associate Clinical Directors

8.5.1 Remuneration Rate

The remuneration rate will be £320 per session. The rate is

inclusive of:

- Employee pension contributions as applicable.
- Employee National Insurance contributions
- Employee tax contributions

but **exclusive** of:

- Employer pension contributions and employer national insurance contribution

Employee contributions for taxation, national insurance and pension requirements will be adjusted at source through normal payroll mechanisms.

8.5.2 Time Commitment

The basis for time commitment is a maximum of 4 sessions per week (where one session equals four hours)

8.5.3 Contractual Status

The CCG has chosen to appoint its Associate Clinical Directors as '**employees**'.

They will be employed on fixed term contracts lasting 18 months in duration.

8.5.4 Mechanism for Payment

In order to ensure that the CCG meets its obligations in respect of HMRC / Pensions requirements and that there are no inconsistencies of approach, the Associate Clinical Directors, as employees, are expected to be **paid via the CCG's payroll provider** with the appropriate tax, national insurance and pension deductions made as applicable at source

8.5.5 Pension

Pension provision is as per the arrangements for standard employees.

8.5.6 Annual leave, sickness & 'allowable leave'

Annual leave and sickness provisions are as per the arrangements for standard employees. There is no specific allowable absence other than annual leave and bank holidays.

8.5.7 Travel Expenses

Expenses should be requested and paid in line with the CCG's travel expenses policy and payroll timetable (which are based on the agreed NHS 'agenda for change' rates in each financial year)

Individuals are not entitled to receive payment of 'home to office' expenses

8.6 Secondary care doctor on the Governing Body

8.6.1 Role Outline

Each CCG is required to have a 'secondary care' doctor as part of its Governing Body membership.

As well as sharing responsibility with the other members for all aspects of the CCG Governing Body business, this clinical member will bring a broader view, on health and care issues to underpin the work of the CCG. In particular, they will bring to the Governing Body an understanding of patient care in the secondary care setting.

8.6.2 Specific attributes and competencies

The post-holder:

- must be a registered medical practitioner who is, or who has been at any time within 10 years of the appointment, onto the Governing Body, registered on the GMC's specialist register (under section 34D of the Medical Act 1983) or is legible to be included within that register as they are an NHS consultant or in a medical speciality in the armed forces (including reservists)–
- has a high level of understanding of how care is delivered in a secondary care setting;
- be competent, confident and willing to give an independent strategic clinical view on all aspects of CCG business;
- be highly regarded as a clinical leader, preferably with experience working as a leader across more than one clinical discipline and/or specialty with a track record of collaborative working;
- be able to take a balanced view of the clinical and management agenda, and draw on their in depth understanding of secondary care to add value;
- be able to contribute a generic view from the perspective of a secondary care doctor whilst putting aside specific issues relating to their own clinical practice or their employing organisation's circumstances; and
- be able to provide an understanding of how secondary care providers work within the health system to bring appropriate insight to discussions regarding service redesign, clinical pathways and system reform.

8.6.3 Further points

Whilst the individual may well no longer practise medicine, they will need to demonstrate that they still have a relevant understanding of care in the secondary setting. The secondary care specialist cannot be an employee or member (including shareholder) of, or a partner in, a provider of primary medical services, or a provider with whom the CCG has made commissioning arrangements. The exceptions are where the CCG has made an arrangement with a provider, subsequent to a patient exercising choice, and where the CCG has made an arrangement with a provider in special circumstances to meet the specific needs of a patient (for example, where there is a very limited choice of provider for a highly specialised service).

8.6.4 Remuneration rate

NHS England guidance recommends that remuneration should be paid either:

- at a rate commensurate with their salary or as needed for replacement costs; or
- at a rate commensurate with the average rate for their profession and level of seniority.

The agreed rate of remuneration for the role of Secondary Care Doctor is £320 per day, but the Accountable Officer will have discretion to negotiate, if required, within parameters agreed by the Remuneration Committee, to secure a suitable candidate. The rate is **inclusive** of:

- Employee National Insurance contributions
- Employee tax contributions

but **exclusive** of:

- Employers National Insurance contributions

It is recognised given the specialised nature and experience/qualifications necessary to undertake this role the CCG may choose to 'second' an individual from a Trust to undertake this role and provide a fee to the Trust to 'backfill' the time afforded to the CCG. Where this arrangement is deemed suitable it is recommended that additional advice is sought from Human Resources prior to confirming any arrangements.

8.6.5 Time Commitment

The basis for time commitment is between a minimum of 3 to a maximum of 6 days per month.

Adherence to the time commitment will be reviewed at the post-holder's annual appraisal (or sooner if applicable), if it is believed that there is a potential issue with this.

8.6.6 Contractual status

The CCG considers that the secondary care doctor serving on the CCG's Governing Body is to be appointed as an '**office holder**', with a term of office of 3 years. At the end of this term, the CCG will undergo a recruitment process and the incumbent individual may apply to be considered for a further 3 year term. There is no cap on the number of time the same individual can be appointed to this position. The notice period for both parties is three months

8.6.7 Mechanism for payment

Depending upon the circumstances of the individual candidate when meeting the role competencies (e.g. whether currently employed or in previous employment) this will adjust the mechanism for payment.

In circumstances where a secondment arrangement is agreed the employing Trust will continue to pay the individual and a recharge arrangement will be agreed with the CCG to pay any fees incurred whilst undertaking CCG business.

If the candidate is outside of existing employment (but is able to demonstrate the relevant competencies for the role) then the CCG will make arrangement for the post holder to be paid via the CCG's payroll with the appropriate tax and national insurance deductions made at source to ensure that the CCG meets its obligations in respect of HMRC.

8.6.8 Pension

As an office holder any earnings under this arrangement are considered to be non-pensionable, but in circumstances where a secondment arrangement is agreed the fees incurred by CCG will reflect charges made by the host employer.

8.6.9 Annual Leave, sickness and 'allowable' absence

As an office holder rather than an employee, the secondary care doctor would not normally receive an annual leave allowance or entitlement to statutory sickness, maternity pay as described above.

The Secondary care doctor will be expected to comply with the CCG's normal reporting procedures for scheduled meetings (in order to assess and manage quoracy issues as applicable), and also ensure that the Chair is aware of any absences from scheduled meetings etc. Absences should be avoided, where possible.

In exceptional circumstances, sickness issues may be considered by the CCG in line with existing policies and procedures.

8.6.10 Travel expenses

Travel expenses incurred by the individual on CCG business are reflective of arrangements for non-executive directors in NHS trusts which mirror the rates set under Agenda for Change and will be amended automatically as and when the rates under Agenda for Change are amended.

In addition to the rates outlined in Agenda for Change individuals are entitled to receive payment of 'Home to Office' expenses given the likelihood of additional travel costs but it should be noted that these expenses are wholly taxable in line with HMRC guidance. Expenses should be requested and paid in line with the CCG's travel expenses policy and payroll timetable.

8.7 Registered Nurse on the Governing Body

8.7.1 Role Outline

Each CCG is required to have a registered nurse as part of its Governing Body membership.

As well as sharing responsibility with the other members for all aspects of the CCG Governing Body business, as a registered nurse on the Governing Body, this person will bring a broader view, from their perspective as a registered nurse, on health and care issues to underpin the work of the CCG especially the contribution of nursing to patient care.

8.7.2 Specific attributes and competencies

The post-holder must:

- be a registered nurse who has developed a high level of professional expertise and knowledge;
- be competent, confident and willing to give an independent strategic clinical view on all aspects of CCG business;
- be highly regarded as a clinical leader, probably across more than one clinical discipline and/or specialty – demonstrably able to think beyond their own professional viewpoint;
- be able to take a balanced view of the clinical and management agenda and draw on their specialist skills to add value;
- be able to contribute a generic view from the perspective of a registered nurse whilst putting aside specific issues relating to their own clinical practice or employing organisation's circumstances; and
- be able to bring detailed insights from nursing and perspectives into discussions regarding service re-design, clinical pathways and system reform.

8.7.3 Further points

The nurse cannot be an employee or member (including shareholder) of, or a partner in, a provider of primary medical services, or a provider with whom the CCG has made commissioning arrangements. The exceptions are where the CCG has made an arrangement with a provider,

subsequent to a patient exercising choice, and where the CCG has made an arrangement with a provider in special circumstances to meet the specific needs of a patient (for example, where there is a very limited choice of provider for a highly specialised service).

This is especially in relation to this particular role and does not preclude practice nurses from being members of the Governing Body in other capacities.

8.7.4 Remuneration rate

NHS England guidance recommends that remuneration should be paid either:

- at a rate commensurate with their salary or as needed for replacement costs; or
- at a rate commensurate with the average rate for their profession and level of seniority.

The agreed rate of remuneration for the role of the Registered Nurse is £320 per day, but the Accountable Officer will have discretion to negotiate, if required, within parameters agreed by the Remuneration Committee, to secure a suitable candidate. The rate is **inclusive** of:

- Employee National Insurance contributions
- Employee tax contributions

but **exclusive** of:

- Employers National Insurance contributions

It is recognised that the CCG may choose to 'backfill' an individual from a General Practice (that is not a member of the CCG or whom the CCG contract with) to undertake this role and provide a fee to reimburse time afforded to the CCG. Where this arrangement is deemed suitable it is recommended that additional advice is sought from Human Resources prior to confirming any arrangements.

8.7.5 Time Commitment

The basis for time commitment is between a minimum of 3 to a maximum of 6 days per month in each financial year

Adherence to the time commitment will be reviewed at the post-holder's annual appraisal (or sooner if applicable), if it is believed that there is a potential issue with this.

8.7.6 Contractual status

The CCG considers that the registered nurse serving on the CCG's Governing Body is to be appointed as an '**office holder**', with a term of office of 3 years. At the end of this term, the CCG will undergo a recruitment process and the incumbent individual may apply to be considered for a further 3 year term. There is no cap on the number of time the same individual can be appointed to this position. The notice period for both parties is three months

8.7.7 Mechanism for payment

Depending upon the circumstances of the individual candidate when meeting the role competencies (e.g. whether currently employed or in previous employment) this will adjust the mechanism for payment.

In circumstances where a backfill arrangement is agreed the employing organisation will continue to pay the individual and a recharge arrangement will be agreed with the CCG to pay any fees incurred whilst undertaking CCG business.

If the candidate is outside of existing employment (but is able to demonstrate the relevant competencies for the role) then the CCG will make arrangement for the post holder to be paid via the CCG's payroll with the appropriate tax and national insurance deductions made at source to ensure that the CCG meets its obligations in respect of HMRC.

8.7.8 Pension

As an office holder any earnings under this arrangement are considered to be non-pensionable.

8.7.9 Annual leave, sickness and 'allowable' leave

As an office holder rather than an employee, the 'registered nurse' would not normally receive an annual leave allowance or entitlement to statutory sickness, maternity pay as described above.

The registered nurse will be expected to comply with the CCG's normal reporting procedures for scheduled meetings (in order to assess and manage quoracy issues as applicable), and also ensure that the Chair is aware of any absences from scheduled meetings etc. Absences should be avoided, where possible.

In exceptional circumstances, sickness issues may be considered by the CCG in line with existing policies and procedures.

8.7.10 Travel expenses

Travel expenses incurred by the individual on CCG business are reflective of arrangements for non-executive directors in NHS trusts which mirror the rates set under Agenda for Change and will be amended automatically as and when the rates under Agenda for Change are amended.

In addition to the rates outlined in Agenda for Change individuals are entitled to receive payment of 'home to office' expenses. Home to office travelling expenses are wholly taxable. Expenses should be requested and paid in line with the CCG's travel expenses policy and payroll timetable.

8.8 Clinical Leads

8.8.1 Role Outline

Clinical Leads play a key role in the successful implementation of CCG commissioning plans, providing clinical advice and leadership to support required changes across a variety of work programmes / projects.

These roles involve collaborative working with colleagues across the health care system, focused on whole pathways of care to facilitate required changes in practice.

CCG clinical lead roles can vary dependent upon relevant organisational need (and required delivery of operational plans) and often varying sessional commitments and 'contractual' durations, dependent upon the requirements of the work programme.

It is anticipated that there will be a need for a number different arrangements with regards to clinical leads requirements, dependent upon organisational needs and elements of each clinical advisory role.

Some examples are provided in the table below with regards to these arrangements and the relationship to the definitions of contract 'of' and 'for' services

Characteristic	Clinical Lead - Contract 'of'	Clinical Lead - Contract 'for'	Clinical Lead - Contract 'for'
Role Nature	Ongoing Support	Pathway / Project Based	Pathway / Project Based
No of Sessions	'all year round'	'time limited'	'time limited'
Substitution Allowable	No	No	Yes
Relationship with	Individual	Individual	GP Practice, where substitute is made available
Payment Mechanism	CCG Payroll	CCG Payroll – with deductions made by CCG via Payroll	Invoice from 'Host' Practice
Role Examples	Named Safeguarding GP Leads	Speciality / Pathway Leads	Demand Management / Neighbourhood Leads
	Ongoing Clinical Advice (IFR / Macmillan / MCAS)	Clinical Advisors (eg. Cancer / Mental Health)	Clinical Advisors (e.g. Cancer / Mental Health)

8.8.2 Remuneration rate

NHS England guidance recommends that remuneration should be paid either:

- at a reasonable rate, in line with practice earnings;
- at a rate commensurate with allowing backfill;
- in line with any local sessional rate as approved.

The CCG has an agreed sessional rate of **£320** per session for non governing body clinical lead roles. The rate is

inclusive of:

- Employee pension contributions as applicable (GP SOLO)
- Employee National Insurance contributions
- Employee tax contributions

but **exclusive** of:

- Employer pension contributions (GP SOLO)
- Employer national insurance contribution

Employee contributions for taxation, national insurance and pension requirements will be adjusted at source through normal payroll mechanisms.

There should be no difference in overall cost to the CCG whether the individual is engaged through a contract 'for' or 'of' agreement and accommodation will be made whether the payment is made to the individual through the CCG's payroll mechanism or to the host GP Practice.

In order to ensure the appropriate tax and national insurance deductions are being made the CCG will seek regular assurances from the GP Practice to confirm the fees paid by the CCG are being

handled appropriately in line with HMRC regulations, where the arrangement is via a host GP practice and a substitute is made available by the practice

The rate paid to the practice is inclusive of both employer and employee pension contributions and as such it is the responsibility of the GP practice to ensure the appropriate pension deductions are made and paid forward to NHS Pensions.

8.8.3 Time Commitment

The number of clinical lead sessions will vary per week dependent upon organisational need

8.8.4 Contract 'Of' Service Roles

The basis for time commitment is 52.143 weeks in each financial year

Adherence to the time commitment will be reviewed at the post-holder's annual appraisal, if it is believed that there is a potential issue with this.

8.8.5 Contract 'for' Service Roles

The basis for time commitment will be agreed between the CCG and the individual / host practice , but is anticipated to be for a fixed / time limited period of time, up to 12 months in duration

Adherence to the time commitment will be reviewed at the post-holder's annual appraisal, if it is believed that there is a potential issue with this.

8.8.6 Contractual status

As per definitions above regarding contract status (relating to 'of' or 'for' status), CCG clinical lead engagements could be considered to be on a '**contract of**' or '**contract for**' service basis due to nature of support to the organisation,

A Contract 'Of' Service agreement will result a relationship between the CCG and an individual clinical lead with result being the individual being placed upon the CCG payroll.

The Contract 'for' Service will be between the CCG, the individual or the 'host' general practice with regards to requirements for services provided. The general practice will arrange for relevant services / support to be provided from within the practice establishment and would usually be on a named basis as approved by the CCG. This principle enables a 'substitution' principle to apply should any individual not be available to provide the required sessions, the general practice can either reallocate to another appropriate individual (again with CCG approval) or the CCG can alternatively arrange another 'contract for service' with another practice in order to fulfil its requirements.

8.8.7 Mechanism for payment - contract 'of' service

In order to ensure that the CCG meets its obligations in respect of HMRC requirements and that there are no inconsistencies of approach, all clinical leads with a contract 'of' service are expected to be **paid via the CCG's payroll provider** with the appropriate tax, national insurance and pensions deductions made as applicable at source.

8.8.8 Mechanism for payment - contract 'for' services

Where contract 'for' service 'clinical lead' payments are to be paid to the host GP Practice, the practice would be responsible for the management of appropriate deductions for taxation, national insurance and pension contributions as applicable.

Where contract 'for' service 'clinical lead' payments are to be paid to the individual, the CCG would be responsible for the management of appropriate deductions for taxation, national insurance and pension contributions, as applicable.

Any staff engaged to undertake clinical lead duties must have an 'employment' basis with a practice within the CCG's boundary

Occasionally, the CCG may require input from other clinicians from outside of the CCG's boundary, for example the CCG sometimes uses the services of an 'Out of Area' GP Advisor (who clearly cannot be 'employed' via a GP Practice within the CCG boundary). These cases will be considered on an individual basis but all other aspects will remain consistent with other elements of this remuneration framework including consistent application the rate of remuneration for non-governing body roles (unless defined separately within this document)

8.8.9 Annual leave, sickness and 'allowable' leave - contract 'of' service roles

'Clinical Leads' who are engaged through Contract 'of' Service basis, would receive an equivalent annual leave allowance and entitlement to statutory sickness, maternity pay in line with statutory requirements.

With regards to annual leave, based on an allowance of 5.6 weeks' holiday per annum full time including bank holidays (equivalent of 28 days at 2 sessions per day equally 56 sessions), annual leave allowance is as per the below table (rounded)

Clinical Lead sessions – contract 'of' service	Contract 'of' service – annual leave allowance
1 Session per week	6 sessions (3 days)
2 Sessions per week (1 day)	11 sessions (5.5 days)
3 Sessions per week	17 sessions (8.5 days)
4 Sessions per week (2 days)	22 sessions (11 days)
5 Sessions per week	28 sessions (14 days)

Clinical Leads would be expected to comply with the CCG's normal leave reporting procedures in place, and also ensure that the CCG is aware of any absences from scheduled meetings etc.

Contract Leads under a contract 'of' service would also have statutory rights to sick pay, maternity and paternity rights.

8.8.10 Annual leave, sickness and 'allowable' leave - contract 'for' service roles

As 'Clinical Leads' who are engaged on an individual basis or through 'host' GP Practices on a 'Contract for Service' basis, they would not receive an annual leave allowance or entitlement to statutory sickness, maternity pay as described above.

For the avoidance of doubt whilst the CCG may continue to provide remuneration to the individual, providing the necessary time commitment is met, a payment during times of absence does not constitute a payment for annual leave or sickness.

8.8.11 Travel expenses

Travel expenses for employed clinical leads are reimbursed in line with the nationally agreed mileage and travel rates for agenda for change staff. For the avoidance of doubt no home to office mileage shall be payable.

Expenses should be requested and paid in line with the CCG's travel expenses policy and payroll timetable.

9. Equal opportunities

In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

10. Framework Review

This policy will be reviewed every twelve months unless an earlier review is required. This will be led by the CCG's Remuneration Committee in conjunction with expert professional human resource and finance advice.

11. Associated documents

- Clinical Commissioning Groups: Remuneration guidance for Chief Officers (where the senior manager also undertakes the accountable offer role) and Chief Finance Officers.
- Clinical Commissioning Groups: HR Frequently Asked Questions (FAQs) Additional questions June 2012.
- Clinical commissioning group Governing Body members: Role outlines, attributes and skills (October 2012).
- Pension Status for CCG Earnings (05/2017) (V5).
- NHS Improvement: Terms and Conditions for NHS Trust Chairs and Non-Executive Directors.

12. Appendix 1 – Comparison Table

Role	Sessional and commitment	Rate time	Contractual status	Payment mechanism	National Insurance Employers Responsibility	Pensionable	Home to office mileage
GPs on the Governing Body	£320 per session (Session = 4 hours)		Office Holder	Payroll individual to	CCG	Yes (dependent upon individual)	No
Chair of the Governing Body (GP)	£90,000 - £105,000 p.a for 0.5 WTE (2.5 days per week) – 0.6 WTE (3 days per week)		Employee or Office Holder	Payroll individual to	CCG	Yes (dependent upon individual)	No
Executive Clinical Director	£83,413.33 per annum for 0.5 WTE		Employee	Payroll individual to	CCG	Yes (dependent upon individual status)	No
Lay Members on the Governing Body	£320 per day (3 – 6 days per month)		Office holder	Payroll individual to	CCG	No	Yes
Associate Clinical Directors	£320 per session (Session = 4 hours)		Employee	Payroll individual to	CCG	Yes (dependent upon individual)	No
Secondary care doctor on the Governing Body	£320 per day (or within parameters agreed by the Rem Com)		Office holder	r Payroll individual to	CCG	No	Yes
Registered nurse on the Governing Body	£320 per day (or within parameters agreed by the Rem Com)		Office holder	Payroll individual to	CCG	No	Yes
Clinical Leads	£320 per session (Session = 4 hours)		Contract <u>for</u> or <u>of</u> service	Payment individual to	CCG	Yes (dependent upon individual status)	No

13. Appendix 2 – GP pensionable income

In line with guidance found at: <https://www.nhsbsa.nhs.uk/sites/default/files/2018-04/GP%20Solo%202018%20guidance-20180412-%28V2%29.pdf>

1995/2008 Scheme members

The rate of employee (tiered) contributions must be based on the GP's **global** NHS pensionable income, i.e. Practice + fee based OOHs + fee based CCG.

2015 Scheme members

If the GP is a member of the 2015 Scheme the pay that is used to set the contribution tiered rate for GP (and non-GP) Providers who start after 1 April or leave before 31 March is annualised; e.g. a GP who starts at a surgery on 01/06/2018 and earns £70,000.00 up to 31/03/2019 is subject to the 13.5% rate. ($£70,000.00 \div 304 \text{ days} \times 365 \text{ days} = \text{notional pay of } £84,046.05$).

Where a GP Provider or salaried GP is a 2015 Scheme member and has no breaks in membership but also performs SOLO work, any breaks in that SOLO work are ignored for the purpose of setting the tiered rate; i.e. the rate is based on the actual surgery and SOLO income.

	2018/19 Total or annualised GP pensionable income	2018/19 contribution rate
1	Up to £15,431.99	5%
2	£15,432.00 to £21,477.99	5.6%
3	£21,478.00 to £26,823.99	7.1%
4	£26,824.00 to £47,845.99	9.3%
5	£47,846.00 to £70,630.99	12.5%
6	£70,631.00 to £111,376.99	13.5%
7	£111,377.00 and over	14.5%

