

## **NHS foundation trust annual reporting manual 2015/16**

May 2016 update

### **Introduction**

The NHS foundation trust annual reporting manual (FT ARM) for 2015/16 was published in November 2015 and is available at <https://www.gov.uk/government/publications/nhs-foundation-trusts-annual-reporting-manual-201516>

We need to make a small number of changes to the FT ARM 2015/16 relating to annual report requirements. We are writing this update to explain the changes, rather than leave NHS foundation trusts to identify the changes themselves within a reissued document.

This update should be read alongside the FT ARM 2015/16. It forms part of our direction to NHS foundation trusts on the content of their annual reports for 2015/16, as issued under paragraphs 24 and 25 of Schedule 7 of the National Health Service Act 2006. This update has been approved by the Department of Health in line with the requirements of that legislation.

### **Clarification: Remuneration report: annual report on remuneration – senior managers with additional duties (e.g. medical directors)**

In preparing the single total figure table in the annual report on remuneration, paragraph 7.48 requires “The report should contain a single total figure for remuneration for each senior manager ... who served during the year shown in tabular form (“the single total figure table”).”

Remuneration reports are required to disclose a single total figure of remuneration for each person occupying a director post. This should include all remuneration paid by the entity to the individual in respect of their service for the entity, including remuneration for duties that are not part of their management role.

The disclosure in single total figure table for medical directors and similar staff should therefore represent their total remuneration package from the entity.

For transparency, entities should add a footnote underneath the table specifying the element of the individual’s remuneration from the entity that relates to their clinical role.

Where the individual receives part of their remuneration from another body the entity should make disclosures only in respect of its share of the individual’s remuneration.

## **Narrative to add: Remuneration report: disclosure of pension entitlements**

As part of the recent Budget, the Chancellor announced a change to the Superannuation Contributions Adjusted for Past Experience (SCAPE) discount rate used to set employer contributions to unfunded public sector pension schemes. The reduction in the discount rate from 3.0% to 2.8% will increase employer contributions from 2019/20.

An additional impact of the change, which is relevant for 2015/16 annual reports, is to change the factors upon which the calculation of Cash Equivalent Transfer Values (CETV) figures is based.

For the NHS Pension Scheme, CETV figures for entities' remuneration reports had already been distributed by the scheme provider before the discount rate change was announced. NHS Pensions have confirmed that they will not be reissuing figures using the new discount rate.

Entities with directors and senior managers in the NHS Pension scheme should therefore prepare their remuneration report based on the CETV figures provided by NHS Pensions before the change in discount rate.

In order to satisfy local audit requirements in this area, NHS foundation trusts must include the following explanatory narrative in their remuneration report:

“On 16 March 2016, the Chancellor of the Exchequer announced a change in the Superannuation Contributions Adjusted for Past Experience (SCAPE) discount rate from 3.0% to 2.8%. This rate affects the calculation of CETV figures in this report.

Due to the lead time required to perform calculations and prepare annual reports, the CETV figures quoted in this report for members of the NHS Pension scheme are based on the previous discount rate and have not been recalculated.”

## **Potential new disclosure requirement: Modern Slavery Act 2015**

### *Transparency in supply chains*

The Modern Slavery Act 2015 establishes a duty for commercial organisations to prepare an annual slavery and human trafficking statement. This is a statement of the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its own business.

An entity is a 'commercial organisation' for the purposes of the Act if it supplies goods and services and has an annual turnover in excess of £36 million (set out in The Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015). Additionally, it must be a body corporate or partnership which carries on a business, or part of a business, in any part of the United Kingdom.

### *Applicability to NHS bodies*

The Act does not specify what constitutes a business, and the potential therefore exists for NHS bodies, particularly NHS providers, that earn income from providing services to be considered to be within the scope of the Act's reporting requirements.

Home Office guidance indicates that pursuit of primarily charitable or educational aims or purely public functions does not necessarily exempt an organisation if it engages in commercial activities. However, discussions between the Department of Health and Home Office have established that NHS bodies are not considered to be carrying on a business where they are engaged in publicly funded activities and that it was not intended that such activities should be within the scope of the Act. Income earned by NHS providers from government sources, including Clinical Commissioning Groups and local authorities, is considered to be publicly funded for this purpose.

Where NHS bodies engage in profit-making activities, these may still be sufficient to trigger the reporting requirements. This is likely to be the case where income is earned from non-government sources, such as private patients, and where this income exceeds £36 million in total. It is ultimately for individual NHS bodies, in discussion with their auditors, to consider whether they have activities that require them to be treated as a commercial organisation for the purpose of the Act, and to produce the required statement accordingly.

### *Publishing a statement if required*

Where a slavery and human trafficking statement is required, the Act specifies that entities must publish this on their website if they have one. The Home Office's practical guide (link below) provides further guidance on this, including:

“Organisations should seek to publish their statement as soon as reasonably practicable after the end of their financial year. In practice, we would encourage organisations to report within six months of the organisation's financial year end. Organisations may wish to publish these statements at the same time as they publish other annual accounts.”

NHS Improvement does not require NHS foundation trusts to include the slavery and human trafficking statement in their annual report (where the Act requires one be produced) but foundation trusts may include it in the annual report if they wish. If included in the annual report we suggest that within the directors' report in the accountability report would be appropriate.

### *Further guidance*

Home Office have produced a practical guide on applying the reporting requirements, which is available at the following link:

<https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide>

The Act and Regulations can be found at the following links. Guidance on the content of a slavery and human trafficking statement can be found in section 54 of the Act.

<http://www.legislation.gov.uk/ukpga/2015/30/contents>

<http://www.legislation.gov.uk/ukdsi/2015/9780111138847/contents>