NHS foundation trust annual reporting manual 2018/19: update

February 2019
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Introduction


This document provides updates to the FT ARM, and should be treated as having the same status as the FT ARM. As with the FT ARM, substantive changes in text compared to last year’s requirements are shown in **bold italics**. Updating references to years are not shown in bold italics.

This document contains:

<table>
<thead>
<tr>
<th>Section</th>
<th>Area</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Updated paragraphs: Paragraphs 2.51 to 2.53</td>
<td>Remuneration report and personal information</td>
<td>Following the introduction of the General Data Protection Regulation (GDPR), additional steps are required for the publication of information relating to individuals.</td>
</tr>
<tr>
<td>Minor update: Annex 5 to chapter 3</td>
<td>Model Annual Governance Statement</td>
<td>The <em>pro-forma</em> paragraph in the annual governance statement on the Climate Change Act and sustainable development has been updated.</td>
</tr>
<tr>
<td>Now added: Annex 6 to chapter 2</td>
<td>Off-payroll arrangements disclosure requirements</td>
<td>These requirements <strong>have not changed</strong> compared to 2017/18. These annexes were omitted from the original FT ARM as the requirements for 2018/19 were confirmed by HM Treasury in December 2018.</td>
</tr>
<tr>
<td>Now added: Annex 7 to chapter 2</td>
<td>Fair Pay Multiple</td>
<td></td>
</tr>
</tbody>
</table>
Update to chapter 2: GDPR and remuneration report

Paragraphs 2.51 to 2.53 of the FT ARM provide guidance on the disclosure of personal information in the remuneration report. In light of the General Data Protection Regulation (GDPR) this guidance is being revised. Paragraphs 2.51 to 2.53 in the FT ARM 2018/19 are revised as follows:

2.51 There is a presumption that information about named individuals will be given in all circumstances and all disclosures in the remuneration report will be consistent with identifiable information of those individuals in the financial statements. However, entities must inform individuals in advance of the intention to disclose information about them, invite them to see what is intended to be published, and notify them they can object under Article 21 of the General Data Protection Regulation (GDPR).

2.52 If a named individual does not agree to disclosure, the trust must consider its approach to the disclosure. Under such circumstances the GDPR requires entities to demonstrate compelling legitimate grounds for the disclosure which override the interests, rights and freedoms of the named individual or for the establishment, exercise or defence of legal claims. NHS foundation trusts are strongly advised to take legal advice in such cases, because a decision not to publish the information may be challenged under the Freedom of Information Act. Where non-disclosure is agreed, the fact that certain disclosures have been omitted should be disclosed.

2.53 Alongside these steps for the remuneration report, NHS foundation trusts should also consider whether any other personal information contained within the annual report and accounts should also be subject to GDPR considerations as set out here.
Update to annex 5 to chapter 2: annual governance statement

As part of the model annual governance statement in the FT ARM 2018/19, the fifth paragraph on page 73 previously said:

The foundation trust has undertaken risk assessments and Carbon Reduction Delivery Plans are in place in accordance with emergency preparedness and civil contingency requirements, as based on UKCIP 2009 weather projects, to ensure that this organisation's obligations under the Climate Change Act and the Adaptation Reporting requirements are complied with.

This is now updated to read:

The foundation trust has undertaken risk assessments and has a sustainable development management plan in place which takes account of UK Climate Projections 2018 (UKCP18). The trust ensures that its obligations under the Climate Change Act and the Adaptation Reporting requirements are complied with.
Annex 6 to Chapter 2: Off-payroll arrangements disclosure requirements

As part of the remuneration report, NHS foundation trusts should present the following data on their highly paid and/or senior off-payroll engagements.

The following is an extract from the Public Expenditure System (PES) paper (2018) 13 published by HM Treasury which sets out disclosure requirements in this area but is not available publicly.

1. For all off-payroll engagements as of 31 March 2019, for more than £245 per day and that last for longer than six months:
   - the total number of existing engagements as of 31 March 2019
   - the number that have existed for less than one year at time of reporting
   - the number that have existed for between one and two years at time of reporting
   - the number that have existed for between two and three years at time of reporting
   - the number that have existed for between three and four years at time of reporting; and
   - the number that have existed for four or more years at time of reporting.

   Reporting of this should follow the format of Table 1 below.

2. For all new off-payroll engagements, or those that reached six months in duration, between 1 April 2018 and 31 March 2019, for more than £245 per day and that last for longer than six months:
   - the number of new engagements, or those that reached six months in duration, during the time period
   - the number of these engagements which were assessed as within the scope of IR35
   - the number of these engagements which were assessed as
not within the scope of IR35

- the number that were engaged directly (via PSC contracted to trust) and are on the trust’s payroll
- the number that were reassessed for consistency/assurance purposes during the year and
- the number that saw a change to IR35 status following the consistency review.

Reporting of this should follow the format of Table 2 (below).

3. For any off-payroll engagements of board members, and/or, senior officials with significant financial responsibility, between 1 April 2018 and 31 March 2019 trusts must also disclose:

- the number of off-payroll engagements of board members, and/or, senior officials with significant financial responsibility, during the financial year¹
- details of the exceptional circumstances that led to each of these engagements
- details of the length of time each of these exceptional engagements lasted and
- the total number of individuals (both on and off-payroll) that have been deemed ‘board members and/or senior officials with significant financial responsibility’ during the financial year. This figure must include both off-payroll and on-payroll engagements.²

Reporting of this should follow the format of Table 3 (below).

¹ There should only be a very small number of off-payroll engagement of board members and/or senior officials with significant financial responsibility.

² As the total figure includes both on-payroll and off-payroll engagements, no entries here should be blank or zero.
### Table formats

**Table 1: For all off-payroll engagements as of 31 March 2019, for more than £245 per day and that last for longer than six months**

<table>
<thead>
<tr>
<th>Number of existing engagements as of 31 March 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Of which...</td>
</tr>
<tr>
<td>No. that have existed for less than one year at time of reporting.</td>
</tr>
<tr>
<td>No. that have existed for between one and two years at time of reporting.</td>
</tr>
<tr>
<td>No. that have existed for between two and three years at time of reporting.</td>
</tr>
<tr>
<td>No. that have existed for between three and four years at time of reporting.</td>
</tr>
<tr>
<td>No. that have existed for four or more years at time of reporting.</td>
</tr>
</tbody>
</table>

**Table 2: For all new off-payroll engagements, or those that reached six months in duration, between 1 April 2018 and 31 March 2019, for more than £245 per day and that last for longer than six months**

<table>
<thead>
<tr>
<th>Number of new engagements, or those that reached six months in duration, between 1 April 2018 and 31 March 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Of which:</td>
</tr>
<tr>
<td>Number assessed as within the scope of IR35</td>
</tr>
<tr>
<td>Number assessed as not within the scope of IR35</td>
</tr>
<tr>
<td>Number engaged directly (via PSC contracted to trust) and are on the trust’s payroll</td>
</tr>
<tr>
<td>Number of engagements reassessed for consistency/assurance purposes during the year</td>
</tr>
<tr>
<td>Number of engagements that saw a change to IR35 status following the consistency review</td>
</tr>
</tbody>
</table>

**Table 3: For any off-payroll engagements of board members, and/or, senior officials with significant financial responsibility, between 1 April 2018 and 31 March 2019**

| Number of off-payroll engagements of board members, and/or, senior officials with significant financial responsibility, during the financial year. |
| Number of individuals that have been deemed ‘board members and/or senior officials with significant financial responsibility’ during the financial year. This figure must include both off-payroll and on-payroll engagements. |
In any cases where individuals are included within the first row of this table the trust should set out:

- Details of the exceptional circumstances that led to each of these engagements.
- Details of the length of time each of these exceptional engagements lasted.
Annex 7 to Chapter 2: Fair Pay Multiple

Foundation trusts must report:
(a) the median remuneration of all staff
(b) the mid-point of the banded remuneration (remuneration includes that paid for work other than as a director) of the highest paid director, whether or not this is the Accounting Officer or chief executive and
(c) the ratio between the median remuneration of the reporting entity’s staff and the highest paid director figure.

The calculation is based on the full-time equivalent staff of the reporting entity at the reporting period end date on an annualised basis. Where there is a sharing arrangement, it is cost to the entity of an individual that identifies them as ‘highest paid’ and not the total of that individual’s remuneration. Termination benefits must be excluded from the calculation of the highest-paid director’s/member’s salary to avoid distorting the ratio.

The following is an extract from the Public Expenditure System (PES) paper (2018) 13 published by HM Treasury which sets out disclosure requirements in this area but is not available publicly.

For ‘Department’ please substitute ‘Foundation trust’.

15.1 Departments should include in their Annual Report and Accounts a narrative highlighting the reasons for any variance in year-on-year multiples. This is because:
- it describes the purpose of including the ratios, and what they mean;
- it ensures transparency in executive remuneration;
- it allows citizens to hold government to account for their use of public funds; and
- it provides departments an opportunity to monitor their own remuneration and note any adverse or anomalous trends.

15.2 The narrative should be concise and clearly linked to the figures disclosed in the remuneration report, and use terms that are easily understandable by the public.

15.3 The narrative should be introduced by the following text:
“Reporting bodies are required to disclose the relationship between the remuneration of the highest paid director in their organisation and the median remuneration of the organisation’s workforce.”
The banded remuneration of the highest paid director in [the organisation] in the financial year 201X-1Y was £xx (201W-1X, £xx). This was – times (201W-1X,-) the median remuneration of the workforce, which was £xx (201W-1X, £xx).

In 201X-1Y, xx (201W-1X, xx) employees received remuneration in excess of the highest-paid director. Remuneration ranged from £xx to £xx (201W-1X £xx-

Total remuneration includes salary, non-consolidated performance-related pay and benefits-in-kind. It does not include severance payments, employer pension contributions and the cash equivalent transfer value of pensions.”

15.4 It should then be followed by a concise and factual explanation of the changes on either side of the ratio, taking into account where relevant:

- Adjustment to the number or composition of the general workforce (e.g. through restructuring, downsizing and outsourcing);

- A change to the remuneration of the most highly paid director. Departments should note that this may not necessarily be an increase to base pay, but a change in taxable expenses or allowances. Where the allowance is temporary (e.g. relocation allowance), departments should note this and its likely impact on the pay multiple;

- A change of the most highly paid director (e.g. a new appointment, or the previously highest paid post having been vacated and/or eliminated);

- The impact of any pay freeze on the multiple (e.g. senior pay freeze that does not affect the majority of staff.); and

- The relationship between the remuneration of most highly paid director and that of employees who are not directors but receive remuneration in excess of the most highly paid director.

15.5 The above list is not exhaustive and should be treated only as general guidance. It is not intended to act as a checklist of justifications for higher multiples.