

## Remuneration of GPs undertaking commissioning work for the CCG

Governing Body meeting

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4 December 2014

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<b>Sponsor</b>	John Boyington, CBE, Chair, Remuneration Committee
<b>Is your report for Approval / Consideration / Noting</b>	
This report is for Governing Body to approve revised remuneration arrangements for GPs undertaking commissioning work for the CCG, excluding the remuneration of Governing Body GP Members for their work specifically as Governing Body Members.	
<b>Are there any Resource Implications (including Financial, Staffing etc)?</b>	
Covered in the paper.	
<b>Audit Requirement</b>	
<b><u>CCG Objectives</u></b>	
<b><i>Which of the CCG's objectives does this paper support?</i></b> Strategic Objective – To improve quality of care in Sheffield	
<b><u>Equality impact assessment</u></b>	
<b><i>Have you carried out an Equality Impact Assessment and is it attached?</i></b> No.	
<b><i>If not, why not?</i></b> There are no specific issues associated with this report.	
<b><u>PPE Activity</u></b>	
<b><i>How does your paper support involving patients, carers and the public?</i></b> Not Applicable.	
<b>Recommendations</b>	
The Governing Body is asked to approve the proposed remuneration arrangements set out in section 3 to this report.	

## Remuneration of GPs undertaking commissioning work for the CCG

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#### 1.0 Introduction

Under its Terms of Reference, the Remuneration Committee has delegated authority to determine the remuneration and conditions of service for all Governing Body members, taking into account any national Directions or guidance on these matters. It also has the remit to make recommendations to the Governing Body on any other potential alternative remuneration and conditions of service for CCG employees and other persons providing services to the CCG, outside of or in place of national Agenda for Change arrangements. Thus, Remuneration Committee was the appropriate place to consider the remuneration arrangements for all GPs undertaking commissioning work for the CCG and make recommendations to Governing Body on this matter.

GP members of Remuneration Committee were not present for this discussion due to conflict of interest issues. However, it was agreed that it would be appropriate to informally “test out” with a range of GPs currently undertaking commissioning work for the CCG to ensure that final proposals would ensure that the CCG would be able to secure the GP input into its commissioning activities which is crucial to support the delivery of its strategic vision. This “testing out” was undertaken through the CCG’s employed Clinical Director with senior HR manager support from the Commissioning Support Unit (CSU) and with no material adverse issues raised.

Obtaining full clarity on the approach to be taken in relation to remuneration of clinicians (and in particular GPs) undertaking commissioning work for the CCG has proved quite challenging. Formal advice relating to contractual status, HMRC rules (tax and NI) and NHS Pension regulations has been subject to change and has at time appeared conflicting and/or difficult to interpret. Following several discussions between the Director of Finance and the CCG’s HR team, together with legal advice, discussions with external audit and knowledge taken from the HR team across a wider footprint than Sheffield, we brought together our knowledge on the regulations the CCG is required to consider. (These are attached in **Appendix 1.**)

It is timely that the approach to be taken with regard to the remuneration arrangements for all GPs which the CCG formally requests to undertake commissioning work is reviewed. This is because a review of clinical commissioning requirements currently being led by the CCG’s Clinical Director, Dr Zak McMurray, is due to make recommendations to Governing Body in January 2015 and, in the meantime, all GPs undertaking regular commissioning work for the CCG (other than remuneration for membership of Governing Body) have letters of engagement which only extend to 31 December 2014. Thus, the CCG needs to be in a position to write to all GPs (other than for Governing Body membership) setting out the arrangements to be put in place from 1 January 2015.

## 2.0 Proposals

Previously, the Remuneration Committee has considered the remuneration and terms of service for GPs who are members of Governing Body and based on Treasury/HMRC guidance, in March 2013 agreed that they should be offered contracts of employment. In April 2014 remuneration rates for 2014/15 were agreed. This paper is not relooking at these decisions.

In relation to other GPs undertaking regular commissioning work, there are basically two options:

- A) Contract of employment
- B) Contract for service – which can either be with the GP as an individual or with the GP's practice (in which case the GP is treated as seconded from the practice).

It is simpler for the CCG if all payments for contracts of service can be made direct to the GP's practice which requires the practice to be responsible for all tax and NI issues and means the CCG does not incur employer's NI costs. However, we are aware that GPs individual circumstances vary and that for some GPs to work on a regular basis for the CCG it is only practical for them to do so as individuals as opposed to through a designated GP practice. Thus, whilst it would be financially beneficial and administratively easier for the CCG to hold the contract for service with a GP practice and hence this is the recommended preferred approach, it is recognised it would not be appropriate to potentially exclude securing the services of a number of experienced GPs by not also approving the second option of a contract with an individual if the contract with the GP practice is not an option.

In making the recommendations set out in section 3, it is believed that, effectively, GP commissioning work for the CCG falls into four categories in terms of time commitment out of their working week, CCG control of the work (using HMRC definitions) and GP's ability to flex to undertake the sessions. We believe that for all GPs currently undertaking work for the CCG we are able to place them in one of these four categories. Each of the four categories are described in the table below.

The recommendations relate to **contractual status** as opposed to actual financial rates of remuneration. This is because the CCG has previously agreed the principle that having set the rate per hour for Governing Body members we have adopted this as the standard rate for other GP input to commissioning work. (This excludes the rate for the Chair of the CCG and the Clinical Director where, due to their additional responsibilities, separate rates of remuneration have been approved by Remuneration Committee.)

## 3. Recommendations

The table below provides the recommendations which Remuneration Committee is putting forward to Governing Body for formal approval:

Position	Recommended contractual relationship	Comments
Governing Body GP Member – For work as Member of the Governing Body	Contract of Employment	This is the existing position and Remuneration Committee endorsed existing arrangements  <b>No action required by Governing Body – Approach already approved by Remuneration Committee under its terms of reference – Included for information only.</b>
CET member and /or clinical portfolio lead	Contract of Employment	Roles carries significant commissioning responsibility for city wide work to be undertaken on behalf of the CCG and this work constitutes a significant proportion of GP time per week (4 or more sessions per week) – hence falls within requirements for employment
Non CET member but undertakes 1-3 sessions per week and commitment >6 months and regardless of whether regional or city wide work, or individual locality work.	Contract for service	Contract preferably with relevant GP practice as most cost effective to CCG (payment to be made over 46 week period to recognise GP leave) but if individual circumstances require, contract with the individual GP.
All other GPs	Contract for service or letter of engagement (dependent upon nature of commitment)	Payment to be made preferably to relevant GP practice but if individual circumstances require, to the individual–based on actual work undertaken

Paper prepared by Julia Newton, Director of Finance CCG and Debbie Hilditch, Director, NHS Yorkshire and Humber CSU

On behalf of John Boyington, CBE, Chair of Remuneration Committee

November 2014

Table 1 below summarises advice and guidance which has been received from HMRC, NHS Pensions Agency and the CSU HR team concerning how the application of tax, national insurance and employment law should be implemented

Table 1

CONTRACTUAL OPTION	TAXATION		NATIONAL INSURANCE		NHS PENSIONS AGENCY RULES	REDUNDANCY AND UNFAIR DISMISSAL RIGHTS
	HMRC RULES ON TAX	DEDUCTIONS FROM SOURCE	HMRC RULES ON NI	DEDUCTIONS FROM SOURCE		
<b><u>Contract of Employment (employee status)</u></b>	Treated as an “officer” and therefore subject to income tax	Income tax to be deducted at source via payroll	Treated as an “officer” and therefore subject to NI contributions Class 1 NIC	NI to be deducted at source via payroll. Employer to pay NI contributions	Treated as an “officer” and therefore, income is pensionable and deducted at source  Employer to make 14% contribution on top of sessional payment/gross salary	Redundancy rights under Agenda for Change would be applicable.
<b><u>Contract for Service with individual GP</u></b>	Treated as taxable income – payment made direct to the individual.	Income tax to be deducted at source via payroll	Treated as income and subject to PAYE contributions	NI to be deducted at source via payroll  Employer to pay NI contributions	Treated as income and subject to superannuation deductions.  Employer to make 14% contribution on top of sessional payment	N/A as not an employee

<p><b><u>Contract for service with a GP practice for a secondment of a particular GP</u></b></p>	<p>The payment would be made to the practice and the practice would treat this as pooled practice income and make the necessary arrangements</p>	<p>Practice responsibility</p>	<p>The payment would be made to the practice and the practice would treat this as pooled practice income and make the necessary arrangements</p>	<p>GP NI contributions practice responsibility</p>	<p>The payment is likely to be considered as pensionable income. Whilst the Practice will be responsible for the payment to NHS Pensions agency the CCG will need to add 14% employer's contribution to the payment to the practice.</p>	<p>N/A</p>
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