

## **EXECUTIVE NOTE**

### **THE NATIONAL HEALTH SERVICE (APPOINTMENT OF CONSULTANTS) (SCOTLAND) REGULATIONS 2009 SSI/2009/166**

1. The above instrument is made in exercise of the powers conferred by sections 105(7) and 108(1) of, and paragraph 6 of Schedule 1 and paragraph 8 of Schedule 5 to, the National Health Service (Scotland) Act 1978. The instrument is subject to the negative resolution procedure.

#### **Background**

2. As part of the review of Appointment Advisory Committees, an independent review of best practice in consultant recruitment was undertaken by Work Psychology Partnership. The evidence from this research suggested that the current appointments process for consultant recruitment in Scotland is not working efficiently and provided evidence of the need for improvement.
3. Consultants are the only staff group within the NHS in Scotland whose recruitment is governed by specific regulations.

#### **Consultation**

4. Based on the findings of the review a public consultation was launched, ending in March 2008, outlining three policy options to modernise the current Advisory Appointment Committee (AAC) recruitment process for consultants. While the responses to the consultation were divergent, discussions with key stakeholders during the consultation period identified common ground which provided a way forward, whilst addressing these stakeholders' concerns.
5. Based on the responses a working group was convened to develop an alternative consultant recruitment process combining the best supported elements of the options presented within the consultation paper. Membership of this group included representatives from the key stakeholder groups including, NHS Boards as employers, the Academy of Royal Colleges and Faculties in Scotland and the Scottish Universities with medical schools.

#### **Policy Objectives**

6. The main changes to the recruitment process for consultants introduced by these regulations are:
  - i. The process will be within the responsibility of, and determined by, the Boards. This will enable Boards to draw on a range of assessment methods to tailor the

recruitment process to the specific requirements of the post and therefore achieve a more robust assessment of candidates.

- ii. A single External Adviser will be included on the Assessment Panel, taken from a listing of specialists developed and managed by or on behalf of the Medical Royal Colleges and Faculties and will work in partnership with the appointing Board, providing the continued external presence within the recruitment process sought by professional groups. The External Advisor must be independent, i.e. not employed by the recruiting Board, and must be a consultant in the same specialty as the post being appointed to. External Advisers will be included on either the Specialist Register maintained by the General Medical Council, or the Specialist List maintained by the General Dental Council (GDC) which has been established under GDC regulations.
  - iii. The Assessment Panel will decide on the most appropriate candidate by a vote in which the Chair person has a casting vote. If the Assessment Panel decide that there is no appropriate candidate then no appointment will be made. If for any reason the Chair is unable to appoint a candidate, such as there being no suitable person identified or some difficulty encountered during the recruitment process, that process will cease and the Chair will write to the Board giving reasons for this.
7. The role of the Medical Royal Colleges and Faculties in establishing, managing and maintaining the list of External Advisers to support the consultant recruitment process will be governed by a memorandum of understanding (MOU). This MOU will be between the Scottish Ministers and the Royal College of Physicians of Edinburgh, on the basis that Royal College of Physicians of Edinburgh will hold and maintain the list of External Advisers on behalf of the Medical Royal Colleges and Faculties in Scotland. The MOU will cover the role of the Royal College including:
- i. establishing a list of up to 200 External Advisors;
  - ii. managing and maintaining this list of External Advisors, so the list will be populated with External Advisors selected from across Scotland and the specialties required and;
  - iii. supporting the recruitment process for consultants by providing an External Advisers in response to requests from NHS Boards.

The Scottish Ministers will provide funding and will issue guidance to all Health Boards and Special Health Boards in the NHS in Scotland on the revised recruitment process for consultants.

8. The Royal College and representatives of the Scottish Ministers will meet regularly, at least once a year, to review the Royal College's management and administration of the listing of External Advisors, the funding of this process as well as any issues arising.

9. Guidance will be issued to Boards on the appointment of consultants to the NHS in Scotland to cover a range of areas relating to consultant appointment under the revised recruitment process including details of :
1. key roles within the recruitment process;
  2. best practice for recruiting boards;
  3. the role of the External Adviser;
  4. training for External Advisers;
  5. the conduct of the recruitment process;
  6. appointments.
10. Guidance will also refer to appointment to Honorary and locum consultant posts as these remain exempt from the Regulations. Locum appointments refer to an appointment made to substitute temporarily for a consultant in that specialty and may be made whilst an appointments process is held or where the service is being restructured in order to ensure service provision.

### **Financial Implications**

11. The complexity of the current process and the resultant delays in appointing consultants incur additional costs for Boards. Primarily these costs arise through specific advertising requirements, the estimated advertising spend by Boards on consultant vacancy advertising in 2006/07 was £376k, and the cost of locum cover. Proposals to increase the cost of agency locums are likely to increase the cost to Boards as employers.
12. Funding will be required to cover the cost of the Royal College and Faculties' role in developing and managing the list of External Advisers within the revised process. This funding will cover staff and overhead costs, including administrative support to respond to Boards requests for External Advisers and the development of a database. Currently this role is undertaken within Health Workforce Directorate by a Senior Medical Officer and a policy officer.
13. The role of the Royal Colleges and Faculties and the funding awarded will be governed by a memorandum of understanding (MOU). The funding will cover initial start up costs and on an ongoing basis staff and overhead costs, based upon the agreed business case submitted by the Royal College. The MOU, including the funding awarded, will be reviewed on a regular basis against the level of demand from Boards for External Advisers to support the recruitment process.

**Scottish Government**  
**Health Workforce Directorate**  
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