

***This document was first issued by UCEA with Update 04/55 as part of the Follett Report implementation process. This is a revised version which takes account of the NHS (Appointment of Consultants) Amendment Regulations 2004.***

## **JOINT NHS AND UNIVERSITY PROCEDURES FOR THE APPOINTMENT OF SENIOR STAFF WITH ACADEMIC AND CLINICAL DUTIES**

### **Introduction**

1. The recommendations of the Follett Report of September 2001 were designed to modernise accountability and management arrangements between NHS Trusts and universities in relation to senior medical and dental staff in England who have both clinical and academic duties. Most of the recommendations require action at local level but the report also recommended structured collective action at national level.
2. In August 2002, the Department of Health and UCEA issued national guidance and model documents regarding the joint appraisal of consultant clinical academic staff.
3. In December 2003, UCEA issued detailed advice on how the Follett recommendations regarding joint working and interdependency of contracts might be implemented by universities (in particular pre-92 universities) in collaboration with their NHS partners.
4. The following guidance relates to joint arrangements between NHS Trusts and universities for the recruitment and selection of senior staff with academic and clinical duties. It is designed to address the following recommendations of the Follett Report:
  - a. *The key principle for NHS and university organisations involved in medical education and research should be 'joint working to integrate separate responsibilities' (paragraph 13)*
  - b. *Universities and NHS bodies should formally make all senior NHS and university staff with academic and clinical duties fully aware to whom they are accountable for the separate facets of their job (paragraphs 18-23)*
  - c. *The job descriptions for new and replacement senior NHS and university staff posts with academic and clinical duties should be jointly prepared and formally agreed by both partners prior to advertisement (paragraphs 26-30)*
  - d. *Appointments to senior NHS and university staff posts with academic and clinical duties should be jointly made under procedures agreed by the partners (paragraphs 31-38)*
  - e. *Substantive and honorary contracts for senior NHS and university staff posts with academic and clinical duties should be explicit about*

*separate lines of responsibility, reporting arrangements and staff management procedures, and should be consistent, cross-referred and issued as a single package (paragraphs 39-45)*

- f. *The substantive university contract and the honorary NHS contract for clinical academics should be interdependent (paragraph 41)*
- g. *The recommendations in this report should apply equally to Dental Schools with appropriate modifications to take account of their special features (paragraphs 75-77)*

5. This guidance relates to:

- i. appointment by a university to a new or replacement senior clinical academic post with an honorary consultant contract with an NHS body (or bodies) and
- ii. appointment by an NHS Trust to a new or replacement consultant post with a teaching and/or research commitment. Such appointments are governed by the NHS (Appointment of Consultants) Regulations 1996 as amended.

It does not apply to NHS consultant posts which carry no teaching or research commitment.

6. It is recognised that each university has its own regulations and procedures relating to the appointment of staff. This guidance is intended as a broad framework for local interpretation taking into account the Follett recommendations and the statutory requirements for NHS appointments.
7. The NHS (Appointment of Consultants) Regulations list a number of exemptions from the requirement for posts to be advertised and for selection to be made by an Advisory Appointments Committee. These include where the person appointed is to receive no remuneration from a Trust and is a member of the academic staff of a university. The appointment procedures for senior clinical academic staff are therefore exempt from the statutory requirements for consultants appointed directly to the NHS. It is nevertheless recommended that the process laid down in statute is generally applied to the appointment of clinical academics and this approach is reflected in the following paragraphs. However, a different process could be agreed at local level between universities and their NHS partners.

### **Assessment of Need and Resource Implications**

8. In order to fulfil the key principle stated above (see 4a), the Follett Report recommended that *University and NHS partnerships responsible for medical education and research should establish joint strategic planning bodies, with joint subsidiary bodies responsible for human resource policies and procedures for staff with academic and clinical duties.* As in the Follett Report, it is recognised that local NHS/university circumstances vary and thus there is no single model that applies. However, it is assumed that these joint bodies are in place. Where a university is in partnership with more than one NHS Trust, there will either be one joint strategic planning body to cover all partnerships or several to cover each single Trust or sets of Trusts. Similarly, local arrangements for the joint subsidiary bodies for human resources will vary. Thus, in relation to an individual university, the terms **joint strategic**

**planning body** and **joint human resource body** in the text that follows refer to each of the bodies which exist locally, whether there be one or more.

9. Assessment of the need for a new or replacement post and the funding source to support it will take place in the context of jointly agreed strategic plans and human resource implications. Given this context, day to day operational arrangements, as agreed by the joint human resource body, should ensure that the university and NHS Trust have each designated a named individual (the **responsible officer**) who is responsible prior to recruitment for ensuring:
  - that the consultation and approval process required internally by each organisation has been undertaken; and
  - that there is joint agreement regarding the need and resources required for the post.

### **Job Description**

10. The job description for the post should include the following elements:
  - Organisational charts
  - Accountability and reporting lines
  - Integrated job plan, subject to paragraph 11 below
  - Appraisal arrangements
  - Clinical governance arrangements
  - Management responsibilities
  - Administrative responsibilities
  - Resources – staff, space, equipment
11. For certain appointments, for instance the appointment of a clinically qualified person with senior management responsibilities for the university, it may need to be agreed that the precise details of the integrated job plan will be confirmed once the specialty of the person appointed is known.
12. The responsible officers of the university and all NHS Trusts involved in the appointment should liaise to ensure that prior to advertisement all parties have had the opportunity to comment on the job description, including the relevant Royal College. The job description should be sent to the Regional Adviser for the particular specialty with a request for the Royal College to nominate a member of the selection committee, the possible composition of which is described below.

## **Other Information for Applicants**

13. The university and NHS Trust(s) involved should formally agree other information for applicants, including a person specification and details of the interview date, using procedures approved locally by the joint strategic planning body.
14. In drawing up the person specification, it should be noted that it is a legal requirement for all doctors to be on the GMC's specialist register before being able to take up a consultant appointment. However, trainees may explore the possibility of post-CCST careers as soon as it is apparent that a CCST will be awarded in the near future. Specialist registrars may therefore apply for a consultant appointment provided the expected date of award of their CCST (or recognised equivalent, if outside the UK) falls no more than 6 months after the date of interview for the consultant post.
15. Arrangements should be made to seek the informed consent of applicants to the necessary disclosure of personal data and sensitive personal data between relevant organisations during the recruitment and selection process.

## **Interview Date**

16. As soon as the interview date is set, all prospective members of the selection committee should be contacted to determine their availability. Where prospective members are unavailable, replacements should be agreed and contacted.

## **Advertisement**

17. The substantive employer should, in consultation with the body awarding the honorary contract, place a minimum of two advertisements. These may be in nationally distributed journals or on nationally available Internet sites commonly used for similar advertisements relating to the profession concerned. At least one of the advertisements should appear in a printed journal.
18. Where there is agreement that compliance with the provisions in the preceding paragraph is not reasonably practicable, the substantive employer should arrange for advertisements to appear in such other publications as are jointly considered appropriate.
19. The advertisement should as a minimum set out the general duties of the post, the closing date for the receipt of applications and the interview date.
20. Where the advertisement is published in respect of a whole-time post, it should include a statement to the effect that applicants for appointment to a part-time post will be considered.

## **Selection Committee Membership and Proceedings**

21. For senior posts with academic and clinical duties, it is common practice for there to be different rules, albeit with some common elements, governing the

membership and proceedings of selection committees according to whether the substantive employer is to be the university or the NHS.

22. The NHS (Appointment of Consultants) Regulations require that membership of selection committees (known as Advisory Appointments Committees) for an NHS consultant should include, as core members:

- A lay member
- A professional member who practices in the relevant specialty appointed after consultation with the relevant Royal College
- The chief officer of the Trust
- The medical or dental director of the Trust (or a person who acts in a similar capacity at the Trust) or, where the appointment is to a consultant post in public health medicine, the Director of Public Health in the Trust in which the duties of the post will mainly be carried out
- A consultant employed by the Trust in the relevant specialty or, where no such person is available, a consultant employed by the Trust in some other specialty
- In the case of appointments to units which have either teaching or research commitments or both, a professional member nominated after consultation with the relevant university

23. Each university has local regulations that govern the constitution of selection committees for academics. These too will need to be taken into account when determining the composition of selection committees for senior posts with academic and clinical duties,

24. The Follett Report recognised that differing university rules, the possibility of more than one NHS body being involved in some appointments, and the possible involvement of external funding bodies created an inherent difficulty in proposing a model composition for selection committees. If all interests were to be covered, such committees would run the risk of being unduly large.

25. Despite the Follett Report's reservations regarding a model composition, it is suggested that local rules governing the composition of selection committees should include the following elements:

- a. representatives as set out in paragraph 22 above
- b. two university representatives
- c. optional additional members as considered appropriate, for instance to provide external academic advice or to represent external funding bodies or internal interests

It should be noted that in the case of Trust appointments only, a lay member is required to chair the committee. Additionally, and where more than one

Trust is involved, the chief officer and medical or dental director are likely to be employed by the lead Trust unless an alternative has been agreed by the Trusts.

A selection committee should be so constituted that it has the authority to make a decision on behalf of both the university and the Trust(s). Thus *inter alia* it must have a majority of members who (i) in the case of NHS appointments, are employed by the Trust(s) and (ii) in the case of university appointments, represent the university. Within the above requirements, the size of the selection committee should be kept as small as possible.

26. The selection committee should not transact any business in the absence of any of the core members specified in paragraph 22 unless there is present a person who has been nominated by the core member concerned to act as deputy.
27. The substantive employer should appoint a person to act as clerk to the committee.
28. In the event of an equality of votes, the Chair should not have any second or casting vote and no candidate should be considered suitable for appointment unless a majority of the members of the committee so agrees.

### **Shortlisting**

29. The selection committee should consider all applications received by the due date stated in the advertisement (and any application received after that date but before the committee meets if the parties are satisfied that there is a reasonable explanation for its late receipt) and agree a shortlist of candidates to be interviewed.

### **Interview**

30. The procedure to be adopted by the selection committee should be as locally agreed by the joint human resource body subject only to the requirement that any appointee must have been interviewed by the committee.

### **Offer of Appointment**

31. The substantive employer should issue the offer of appointment. Any consequent discussion with the preferred candidate prior to acceptance should be undertaken according to arrangements agreed by the joint human resource body in order to ensure the involvement of all interested parties.

### **References**

32. In order to be consistent with the Department of Health's guidance on the implementation of the NHS (Appointment of Consultant) Regulations, references should be taken up at the time of the conditional offer of employment. Institutions may prefer, however, that references be available prior to any offer of appointment.

## **Contract of Employment**

33. The substantive contract and the honorary contract should be issued as a single package from a single source. Although local arrangements to facilitate this are likely to be agreed by the joint human resource body and may vary, it is envisaged that the substantive employer will be responsible for the issue of the contract package.
34. In accordance with Follett principles, each contract should:
- b. specify the separate lines of responsibility and reporting arrangements, and the review, appraisal and disciplinary procedures that will apply;
  - c. refer to the agreed job description, including the integrated job plan, and indicate the mechanism by which this can vary over time;
  - d. refer to other procedures that apply, such as those for staff grievances and public disclosure of information;
  - e. seek informed consent to the necessary disclosure of personal data and sensitive personal data between the university and NHS Trust(s).
35. The substantive contract should contain a clear statement as to any appropriate registration, status or honorary contract that is considered essential to the proper performance of the substantive contract duties. It should require the employee to advise the substantive employer of any change in the registration, status or honorary contract and any disciplinary, performance or ill-health action taken by the honorary employer. It should also clearly state that termination of the honorary contract will lead to review, and possible termination, of the substantive contract using the approved procedures of the substantive employer.
36. The honorary contract should contain a clear statement to the effect that withdrawal of the substantive contract will lead to a review, and possible termination, of the honorary contract using the approved procedures of the honorary employer.

## **Joint Procedures**

37. In recognition of the obligations of both the university and NHS Trust, the joint human resource body should agree a local protocol for co-operation in relation to contractual matters. The protocol should cover, as a minimum, issues of appraisal, review, discipline and dismissal as well as arrangements for the sharing of information relating to employee duties, conduct, performance and health. Thus, the protocol should:
- Specify the procedures of both the university and Trust in relation to appraisal, review, discipline, dismissal, capability and performance and an agreement to liaise with the other before activating any such procedure.

- Specify the mechanisms for deciding which matters would normally be dealt with (i) under the Trust's procedures, (ii) under the university's procedures and (iii) under both. In the case of (iii), mechanisms for determining which organisation's procedures will take priority should be specified.
- Specify the mechanisms for the exchange of information regarding the progress and outcome of action under the procedures.
- Record agreement for the substantive and honorary contracts to contain appropriate clauses which enable joint working between the organisations and which address data protection issues.

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